POLICIES AND PROCEDURES FOR JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT COMPLIANCE MONITORING

STATE OF ALASKA

Department of Health and Social Services

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PREFACE

Under the terms of the Juvenile Justice and Delinquency Prevention Act of 1974, the State of Alaska is required to monitor all jails, detention facilities, correctional facilities and nonsecure facilities to insure compliance with provisions of the Act restricting (1) placement of status offenders and nonoffenders in any secure detention facility or correctional facility, (2) detention of status offenders, nonoffenders and juveniles alleged to be or found to be delinquent in institutions in which they have regular contact with incarcerated adults, and (3) detention of juveniles in any jail or lockup for adults.

This manual is designed to provide detailed procedures for annual identification and classification of the monitoring universe, inspection of facilities, collection, verification and analysis of data, and preparation of monitoring reports. It is intended for use both as a training guide and as a reference source for use during the annual monitoring effort. Part 1 contains detailed guidelines for annual monitoring. The Juvenile Justice and Delinquency Prevention Act of 1974, as amended through December 31, 1989, is reproduced in Part 2. Part 3 includes the Formula Grant regulation and other regulations governing the monitoring process. The monitoring plan for Alaska, prepared in 1988, may be found in Part 4 under the title "Alaska's System for Monitoring Compliance With the Juvenile Justice and Delinquency Prevention Act." Parts 5 through 8 contain, respectively, the results of the audit of Alaska's compliance monitoring system conducted by the Office of Juvenile Justice and Delinquency Prevention (OJJDP) in 1987, the jail removal plan (revised) submitted by the state in 1987, the state's three year plan, also submitted in 1987 and, finally, the monitoring report for 1989 - the latest year for which data are available - detailing Alaska's level of compliance with the deinstitutionalization, separation and jail removal provisions of the Juvenile Justice and Delinquency Prevention Act.

In addition to these materials, relevant policy statements, legal opinions and regulations are contained in Volume 1 of the Formula Grants Program Manual prepared by the Office of Juvenile Justice and Delinquency Prevention in conjunction with Community Research Associates. The materials in that document should be consulted whenever questions concerning monitoring practices and/or interpretation of regulations cannot be resolved based on information in the present volume.

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MONITORING GUIDELINES

I. INTRODUCTION

The Juvenile Justice and Delinquency Prevention Act of 1974 (JJDPA) provides for annual distribution of federal Formula Grant funds among states which comply with the eligibility requirements specified in the Act. To be eligible to receive formula grants, each state must submit a plan for carrying out the purposes of the Act. As described in Section 223(a) of the JJDPA, the plan submitted by each state must provide for a system of monitoring jails, detention facilities, correctional facilities and nonsecure facilities to ensure that (1) juveniles who are status offenders or nonoffenders are not placed in secure detention or correctional facilities (deinstitutionalization), (2) juveniles alleged to be or found to be delinquent and juveniles who are status offenders or nonoffenders are not detained in facilities in which they have regular contact with incarcerated adults (separation) and (3) no juveniles are detained in any jail or lockup for adults (jail removal):

> Sec. 223. (a) In order to receive formula grants under this part, a State shall submit a plan for carrying out its purposes applicable to a 3-year period. Such plan shall be amended annually to include new programs, and the state shall submit annual performance reports to the administrator which shall describe progress in implementing programs contained in the original plan, and shall describe the status of compliance with State plan requirements. In accordance with regulations which the Administrator shall prescribe, such plan shall--
>
> (12)(A) provide within three years after submission of the initial plan that juveniles who are charged with or who have committed offenses that would not be criminal if committed by an adult or offenses which do not constitute violations of valid court orders, or such nonoffenders as dependent or neglected children, shall not be placed in secure detention facilities or secure correctional facilities; and
>
> (B) provide that the State shall submit annual reports to the Administrator containing a review of the progress made by the State to achieve the deinstitutionalization of juveniles described in subparagraph (A) and a review of the progress made by the State to provide that such juveniles, if placed in facilities, are placed in facilities which (i) are the least restrictive alternatives appropriate to the needs of the child and the community; (ii) are in reasonable proximity to the family and the home communities of such juveniles; and (iii) provide the services described in section 103(1);
>
> (13) provide that juveniles alleged to be or found to be delinquent and youths within the purview of paragraph (12) shall not be detained or confined in any institution in which they have regular contact with adult persons incarcerated because they have been convicted of a crime or are awaiting trial on criminal charges;
>
> (14) provide that, beginning after the five-year period following December 8, 1980, no juvenile shall be detained or confined in any jail or lockup for adults, except that the Administrator shall, through 1993, promulgate regulations which make exceptions with regard to the detention of juveniles accused of non-status offenses who are awaiting an initial court appearance pursuant to an enforceable State law requiring such appearances

within twenty-four hours after being taken into custody (excluding weekends and holidays) provided that such exceptions are limited to areas which--

(A) are outside a Standard Metropolitan Statistical Area,

(B) have no existing acceptable alternative placement available, and

(C) are in compliance with the provisions of paragraph (13);

(15) provide for an adequate system of monitoring jails, detention facilities, correctional facilities, and non-secure facilities to insure that the requirements of paragraph (12)(A), paragraph (13), and paragraph (14) are met, and for annual reporting of the results of such monitoring to the Administrator, except that such reporting requirements shall not apply in the case of a State which is in compliance with the other requirements of this paragraph, which is in compliance with the requirements in paragraph (12)(A) and paragraph (13), and which has enacted legislation which conforms to such requirements and which contains, in the opinion of the Administrator, sufficient enforcement mechanisms to ensure that such legislation will be administered effectively.

--Juvenile Justice and Delinquency Prevention Act, Section 223(a)(12), (13), (14) and (15)

The Office of Juvenile Justice and Delinquency Prevention (OJJDP), established within the United States Department of Justice by the JJDP Act, is authorized to prescribe regulations consistent with the Act and to award or deny formula grants. The Formula Grant regulation promulgated by OJJDP requires each state to submit a plan for annually monitoring jails, lockups, detention facilities, correctional facilities and nonsecure facilities and identifies four basic tasks which are central to the monitoring process:

28 CFR Part 31.303

(f) **Monitoring of Jails, Detention Facilities and Correctional Facilities.** (1) Pursuant to section 223(a)(15) of the JJDP Act, and except as provided by paragraph (f)(7) of this section, the State shall:

(i) Describe its plan, procedure and timetable for annually monitoring jails, lockups, detention facilities, correctional facilities and non-secure facilities. The plan must at a minimum describe in detail each of the following tasks including the identification of the specific agency(s) responsible for each task.

(A) **Identification of the Monitoring Universe.** This refers to the identification of all residential facilities which might hold juveniles pursuant to public authority and thus must be classified to determine if it should be included in the monitoring effort. This includes those facilities owned or operated by public and private agencies.

(B) **Classification of the Monitoring Universe.** This is the classification of all facilities to determine which ones should be considered as a secure detention or correctional facility, adult correctional institution, jail, lockup, or other type of secure or nonsecure facility.

(C) **Inspection of Facilities.** Inspection of facilities is necessary to ensure an accurate assessment of each facility's classification and record keeping. The inspection must include: (1) A review of the physical accommodations to determine whether it is a secure or nonsecure facility or whether adequate sight and sound separation between juvenile and adult offenders exists and (2) a review of the record keeping system to determine whether sufficient data are maintained to determine compliance with section 223(a)(12), (13) and/or (14).

(D) **Data Collection and Data Verification**. This is the actual collection and reporting of data to determine whether the facility is in compliance with the applicable requirement(s) of section 223(a)(12), (13) and/or (14). The length of the reporting period should be 12 months of data, but in no case less than 6 months. If the data is self-reported by the facility or is collected and reported by an agency other than the State agency designated pursuant to section 223(a)(1) of the JJDP Act, the plan must describe a statistically valid procedure used to verify the reported data.

--28 CFR Part 31.303(f)(1)(i)

A plan for monitoring compliance with the JJDP Act has been developed by the Justice Center at the University of Alaska Anchorage, working in conjunction with the State of Alaska, Department of Health and Social Services, Division of Family and Youth Services. The monitoring plan - described elsewhere in this volume under the title "Alaska's System for Monitoring Compliance With the Juvenile Justice and Delinquency Prevention Act" - outlines the general method which has been devised for completion of each of the monitoring tasks referenced above, identifies the principle barriers to implementation of the monitoring plan and summarizes violation procedures. The monitoring plan provides for annual updating of the monitoring universe and classification of facilities, inspection of one-third of all facilities each year, and a data collection and verification process which includes sampling of facilities for data collection, verification of self-report data, and data analysis. The JJDP Act, the Formula Grant regulation and the monitoring plan should all be studied carefully prior to initiation of the annual monitoring process and they should be referenced whenever questions arise regarding monitoring policies and procedures.

The monitoring guidelines which follow provide step-by-step instructions for completion of all monitoring tasks. They are intended to help you understand each of the activities which comprise JJDPA monitoring and to give you a detailed outline of procedures to follow. They do not supersede any regulation promulgated by OJJDP, however, and procedures should be altered as necessary in order to comply with regulations or legal opinions promulgated subsequent to preparation of this manual.

A checklist of monitoring activities may be found in Appendix A. Normally, activities should be undertaken in the order in which they are described and each activity should be completed prior to commencement of the next one.

II. STARTUP/INITIAL CONTACTS

Prior to beginning any other activity, it will be necessary to document your authorization to inspect facilities and examine records and to make initial contacts with key individuals. You will need to obtain written authorization from the Youth Corrections Administrator at the Division of Family and Youth Services (DFYS) to examine confidential records pertaining to juveniles and to inspect facilities under the authority granted to the Department of Health and Social Services (DHSS) under AS 47.10.150, AS 47.10.160 and AS 47.10.180. You will also need to obtain authorization from the Rural/Village Public Safety Officer Enforcement Unit Administrator for the Alaska State Troopers, the Contract Jail Administrator for the Department of Public Safety, the Commissioner of Corrections, the Administrative Director for the Alaska Court System and the Director of the North Slope Borough Department of Public Safety to examine records and conduct inspections at facilities under their respective jurisdictions. The VPSO coordinator for each of the 13 regional nonprofit Native associations established by the Alaska Native Claims Settlement Act should also be contacted in order to notify them of your plans to inspect facilities in each region and to solicit their cooperation. Functionally, these activities will also initiate the process of identifying and classifying the monitoring universe, collecting data and inspecting facilities.

A. Youth Corrections Administrator, Division of Family and Youth Services

A letter of authorization addressed to each of the following should be prepared for the signature of the Youth Corrections Administrator, Division of Family and Youth Services. Each letter should be mailed immediately following the initial telephone contact with each individual, as described below:

Rural/Village Public Safety Officer Enforcement Unit Administrator, Alaska State Troopers
Contract Jail Administrator, Department of Public Safety
Commissioner of Corrections
Administrative Director, Alaska Court System
Director, North Slope Borough Department of Public Safety
VPSO Coordinators, Regional Nonprofit Native Associations
Regional Administrators, Division of Family and Youth Services
Superintendents, Juvenile Detention Centers

The Youth Corrections Administrator should also be requested to begin the process of updating the list of juveniles previously adjudicated delinquent for possession or consumption of alcohol, as described in Section VII(C)(2) of these guidelines.

B. Rural/Village Public Safety Officer Enforcement Unit Administrator, Alaska State Troopers

A letter, to be mailed to the commander of each detachment of the Alaska State Troopers (AST) and to each Trooper having village oversight duties, should be prepared for the signature of the Rural/Village Public Safety Officer Enforcement Unit Administrator, Alaska State Troopers. The letter should explain the monitoring process, verify your authorization to inspect lockups and examine booking records, and direct Troopers and Village Public Safety Officers (VPSOs) to cooperate with the monitoring effort by mailing booking records to you and allowing you to conduct on-site inspections.

The Rural/VPSO Enforcement Unit Administrator should also be asked to provide a current list of each of the following:

Village Oversight Troopers
Village Public Safety Officers (VPSOs)
VPSO Coordinators, Regional Nonprofit Native Associations

C. Contract Jail Administrator, Department of Public Safety

A letter, to be mailed to the superintendent of each municipal jail with which the Department of Public Safety (DPS) contracts for detention services, should be prepared for the signature of the Contract Jail Administrator, Department of Public Safety. The letter should explain the monitoring process, verify your authorization to inspect facilities and examine booking records, and direct facility superintendents to cooperate with the monitoring effort by mailing booking records to you upon request and allowing you to conduct on-site inspections.

At this time, the Contract Jail Administrator should also be requested to provide a comprehensive list of state-contracted jails for use in identification of the monitoring universe, as described in Section III(B) of these guidelines.

This is also the appropriate time to arrange with the Contract Jail Administrator to photocopy Client Billing Sheets (the detention records forwarded to DPS by each contract jail) at the Department of Public Safety for use in data collection, as described in Section V(C) of these guidelines.

D. Commissioner of Corrections

A letter, to be mailed to the superintendent of each Department of Corrections (DOC) facility authorized by DOC policy to detain juveniles, should be prepared for the signature of the Commissioner of Corrections. The letter should explain

the monitoring process, verify your authorization to inspect facilities and examine booking records, and direct facility superintendents to cooperate with the monitoring effort by allowing you to conduct on-site inspections and by providing any requested information pertaining to the monitoring effort.

At this time, the Commissioner of Corrections should also be requested to provide a current list of Department of Corrections facilities as well as a statement indicating which facilities are permitted under DOC policy to detain juveniles and certifying that other facilities are prohibited from detaining juveniles under **any** circumstances. (See Section III(C) of these guidelines for a description of these procedures).

This is also the appropriate time to arrange with the Commissioner of Corrections to have DOC generate a computer printout containing pertinent monitoring data, as described in Section V(D) of these guidelines.

E. Administrative Director, Alaska Court System

A letter, to be mailed to appropriate personnel at any court that maintains a holding area which meets the definition of a lockup as provided in the Formula Grant regulation, (see Section IV of these guidelines for definitions of facility types), should be prepared for the signature of the Administrative Director, Alaska Court System. The letter should explain the monitoring process, verify your authorization to inspect holding areas and examine admission records, and direct court personnel to cooperate with the monitoring effort by mailing admission records to you and allowing you to conduct on-site inspections.

This is also the appropriate time to request that the Administrative Director identify any court holding areas which meet the definition of a lockup. (See Section III(D) of these guidelines for a discussion of this procedure). NOTE: Only one court currently maintains a holding area meeting the definition of a lockup, and access to this facility for both data collection and inspections is provided by the Alaska State Troopers. The procedures described in this section may therefore be omitted unless the Administrative Director indicates that holding areas in one or more additional facilities meet the definition of a lockup.

F. Director, North Slope Borough Department of Public Safety

A letter, to be mailed to the Public Safety Officer in charge of each lockup maintained by the North Slope Borough Department of Public Safety, should be prepared for the signature of the Director of the North Slope Borough Department of Public Safety. The letter should explain the monitoring process, verify your authorization to inspect facilities and examine booking records, and direct Public Safety Officers at each facility to cooperate with the monitoring effort by allowing

you to conduct on-site inspections and providing any requested information pertaining to the monitoring effort.

At this time, the Director should also be requested to provide a comprehensive list of lockups operated by the North Slope Borough Department of Public Safety for use in identification of the monitoring universe, as describe in Section III(E) of these guidelines.

This is also the appropriate time to arrange for submission of booking records for each lockup operated by the North Slope Borough Department of Public Safety, as described in Section V(E) of these guidelines.

G. VPSO Coordinators, Regional Nonprofit Native Associations

Representatives of each regional Native nonprofit association should be notified by telephone and/or by mail that the annual monitoring effort is proceeding and that village lockups in the region will be contacted regarding data collection and inspection of facilities. Notification of the VPSO coordinators for regional Native nonprofit associations is a recommended courtesy whenever village research is conducted, and VPSO coordinators who are aware that the monitoring is taking place can be of assistance if they are contacted by Village Public Safety Officers (VPSOs) or municipal police officers who have questions regarding authorization to release data or permit inspection of village lockups. (Note: As explained in Section III(A) of these guidelines, it is also advisable - as a complement to the survey of village oversight Troopers used in identification of the monitoring universe - to ask the VPSO coordinator for each regional Native nonprofit association to identify lockups with which he or she is familiar. Since some VPSO coordinators may be aware of facilities which are not known to oversight Troopers, this procedure can help identify additional facilities which should be added to the monitoring universe).

III. IDENTIFICATION OF THE MONITORING UNIVERSE

A list of all facilities currently included in the monitoring universe is contained in Appendix B. Facilities are divided into juvenile detention centers, juvenile holdover facilities, adult jails, adult correctional facilities and adult lockups. The year in which each facility was last inspected for compliance with the JJDP Act is noted, as is the most recent assessment of the presence or absence of sight and sound separation of juvenile and adult inmates.

A systematic effort to update the monitoring universe by identifying any newly opened facilities which might hold juveniles and any facilities which are no longer in operation must be conducted each year. The following procedure should be used to identify facilities to be added to or deleted from the monitoring universe:

A. Village Oversight Troopers, Alaska State Troopers

All village oversight Troopers statewide should be surveyed by telephone to determine the location of all municipal jails and lockups in each region. Each oversight Trooper should be asked to list all communities within his or her jurisdiction and to indicate the presence or absence of an adult lockup (as defined in Section IV of these guidelines) or any other resource for secure confinement of either adults or juveniles in each community. Where the oversight Trooper is unable to indicate the presence or absence of a jail or lockup in each community named (this is most likely to occur with respect to very small villages in which law enforcement services are provided by a small municipal police department, rather than by a Village Public Safety Officer or State Trooper), the respondent should be asked to provide the name of a person within the detachment or in the community itself who may be able to provide the requested information and the individual named should then be contacted and requested to provide the information. This process should be repeated until the presence or absence of a jail or lockup is indicated for all communities. A questionnaire to be used in this survey is contained in Appendix E. (Note: It is also advisable to ask the VPSO coordinator for each regional Native nonprofit association to identify lockups with which he or she is familiar. It is possible that some VPSO coordinators may be aware of facilities which are not known to oversight Troopers).

B. Contract Jail Administrator, Department of Public Safety

A current list of municipal jails with which the Department of Public Safety contracts for detention services should be obtained from the Contract Jail Administrator, Department of Public Safety. This list should be compared with the listing of adult jails in the monitoring universe (Appendix B). Each facility identified as currently providing contract jail services for adults, but which is not already in the monitoring universe, should be added to the monitoring universe.

Each facility which is not included in the current list of contract jails should be removed from the monitoring universe if it is no longer in operation or reclassified as another type of facility (see Section IV of these guidelines for classification procedures and definitions of facility types) if it continues to be used for detention purposes.

C. Commissioner of Corrections

A current list of adult correctional facilities should be obtained from the Office of the Commissioner, Department of Corrections (DOC). The Commissioner of Corrections should also be requested to indicate which facilities are permitted by Department of Corrections policy to detain juveniles and to certify in writing that Department policy prohibits detention of juveniles under **any** circumstances in other DOC facilities. Each facility included in the current list of DOC facilities which is not already in the monitoring universe should be added to the monitoring universe along with an appropriate notation indicating whether or not the facility is authorized to detain juveniles. Each facility which is not on the current list of DOC facilities should be removed from the monitoring universe if it is no longer in operation or reclassified as another type of facility (see Section IV of these guidelines for classification procedures and definitions of facility types) if it continues to provide detention services. Changes in Department of Corrections authorization for individual facilities to detain juveniles should also be appropriately noted in the monitoring universe listing in Appendix B.

D. Administrative Director, Alaska Court System

The Administrative Director of the Alaska Court System should be asked to identify any courts that maintain a holding cell or other area which meets the definition of a lockup as provided in the Formula Grant regulation. (See Section IV of these guidelines for definitions of facility types). Only one court (in Delta Junction) currently maintains a holding area meeting the definition of a lockup, and access to this facility for both data collection and inspections is provided by the Alaska State Troopers. Any additional facility which is found to meet the definition of a lockup should be added to the monitoring universe.

E. Director, North Slope Borough Department of Public Safety

The Director of the North Slope Borough Department of Public Safety should be asked to provide a current list of lockups maintained by the North Slope Borough Department of Public Safety. Each facility which is not already in the monitoring universe should be added to the monitoring universe and each facility which is no longer in operation should be removed from the monitoring universe. Each North Slope Borough facility (except the contract jail at Barrow) which is not included on the current list of adult lockups but which continues to provide detention

services should be reclassified appropriately. (See Section IV of these guidelines for classification procedures and definitions of facility types).

Arrangements should also be made at this time to have booking records for each lockup operated by the North Slope Borough Department of Public Safety mailed to you and/or to schedule site visits to conduct inspections and collect data. (See Section V(E) and Section VI(A) of these guidelines).

F. Youth Corrections Administrator, Division of Family and Youth Services

A current list of all juvenile detention centers, juvenile correctional facilities and juvenile holdover facilities should be obtained from the Youth Corrections Administrator, Division of Family and Youth Services. The Youth Corrections Administrator should be requested to obtain a certification from the Director of the Division of Family and Youth Services that all foster homes and child residential care facilities licensed by the Division are nonsecure, except for any facilities which have been granted permission to operate a locked room under the provisions of 7 AAC 50.053(e). A current list of facilities which have been granted permission to operate a locked room should also be obtained from the Youth Corrections Administrator. Each listed facility which is not already in the monitoring universe should be added to the monitoring universe and each facility which is no longer in operation should be removed from the monitoring universe. Each facility which is not included on the lists provided by the Youth Corrections Administrator, but which continues to provide detention services, should be reclassified appropriately. (See Section IV of these guidelines for classification procedures and definitions of facility types).

IV. CLASSIFICATION OF THE MONITORING UNIVERSE

Facilities added to the monitoring universe each year should be provisionally classified based on comparison of usages with appropriate federal definitions wherever possible. Facilities which are not already classified by one or more state agencies in a manner which is amenable to comparison with federal definitions should be provisionally classified according to an assessment of the appropriate classification based upon all available information.

The following definitions relevant to classification of facilities are included in Section 103 of the JJDP Act:

> Sec. 103. For purposes of this Act--
>
> (10) the term "construction" means acquisition, expansion, remodeling, and alteration of existing buildings, and initial equipment of any such buildings, or any combination of such activities (including architects' fees but not the cost of acquisition of land for buildings);
>
> (12) the term "secure detention facility" means any public or private residential facility which
>
> (A) includes construction fixtures designed to physically restrict the movements and activities of juveniles or other individuals held in lawful custody in such facility; and
>
> (B) is used for the temporary placement of any juvenile who is accused of having committed an offense, of any nonoffender, or of any other individual accused of having committed a criminal offense;
>
> (13) the term "secure correctional facility" means any public or private residential facility which--
>
> (A) includes construction fixtures designed to physically restrict the movements and activities of juveniles or other individuals held in lawful custody in such facility; and
>
> (B) is used for the placement, after adjudication and disposition, of any juvenile who has been adjudicated as having committed an offense, any nonoffender, or any other individual convicted of a criminal offense.
>
> **--Juvenile Justice and Delinquency Prevention Act, Section 103(10), (12) and (13)**

The Formula Grant regulation provides the following definitions relevant to classification of facilities:

> 28 CFR Part 31.303(f)
>
> (2) For the purpose of monitoring for compliance with section 223(a)(12)(A) of the Act a secure detention or correctional facility is any secure public or private facility used for the lawful custody of accused or adjudicated juvenile offenders or non-offenders, or used for the lawful custody of accused or convicted adult criminal offenders.
>
> **--28 CFR Part 31.303(f)(2)**

28 CFR Part 31.304

(b) **Secure**. As used to define a detention or correctional facility this term includes residential facilities which include construction fixtures designed to physically restrict the movements and activities of persons in custody such as locked rooms and buildings, fences, or other physical structures. It does not include facilities where physical restriction of movement or activity is provided solely through facility staff.

(c) **Facility**. A place, an institution, a building or part thereof, set of buildings or an area whether or not enclosing a building or set of buildings which is used for the lawful custody and treatment of juveniles and may be owned and/or operated by public and private agencies.

(m) **Adult Jail**. A locked facility, administered by State, county, or local law enforcement and correctional agencies, the purpose of which is to detain adults charged with violating criminal law, pending trial. Also considered as adult jails are those facilities used to hold convicted adult criminal offenders sentenced for less than one year.

(n) **Adult Lockup**. Similar to an adult jail except that an adult lockup is generally a municipal or police facility of a temporary nature which does not hold persons after they have been formally charged.

--28 CFR Part 31.304(b), (c), (m) and (n)

In practice, a secure facility is defined as a residential facility which provides a place where a person's movement can be restricted by closing and locking, blocking or barring a door or other construction fixture in such a fashion that the person may not leave the room. Cuffing rails, etc. do not by themselves constitute secure confinement under this definition. A facility should be classified as nonsecure only where there is no room or other place in the facility - as described by facility staff (for provisional classification) or as observed during on-site inspection - which is designated for confinement and which can be locked, blocked or barred so that a person inside cannot leave. All other facilities should be classified as secure.

Municipal jails which provide detention services under contract with the state are authorized to detain adult inmates pending trial and should therefore be provisionally classified as adult jails pending inspection. Rural holding facilities which do not operate under contract with the state are not authorized "to detain adults charged with violating criminal law, pending trial" or "to hold convicted adult criminal offenders sentenced for less than one year" and therefore do not meet the definition of adult jail contained in 28 CFR Part 31.304(m). Thus, such facilities should be provisionally classified (pending on-site inspection) as adult lockups.

Facilities operated by the Department of Corrections are designated by the state as adult correctional facilities and meet the definition of "secure correctional facility" contained in Section 103(13) of the Juvenile Justice and Delinquency Prevention Act. Any new Department of Corrections facility added to the monitoring universe should therefore be provisionally classified as such pending on-site inspection. (Note: The entry for each Department of Corrections facility in the monitoring universe listing in Appendix B should also include an appropriate notation indicating whether the facility is authorized

by Department of Corrections policy to detain juveniles, as discussed in Section III(C) of these guidelines).

Each secure facility must be inspected at least once every three years to ensure that its classification remains adequate. This inspection will be conducted in conjunction with other aspects of the inspection of facilities, as discussed below.

V. DATA COLLECTION

Monitoring for jail removal, deinstitutionalization and separation will normally entail collection of data directly from original admission/release records or certified reproductions of original records. Note that all photocopied booking records submitted by mail must be accompanied by a signed certification that the records submitted represent a complete and accurate record of all persons detained at the facility during the monitoring period. The certification form used for this purpose may be found in Appendix E.

The data collection process will be initiated contemporaneously with identification of the monitoring universe. In many instances, persons contacted regarding the monitoring universe will be requested at the same time to arrange to have facility booking records photocopied and mailed to you.

A. Juvenile Detention Centers

The superintendent of each juvenile detention center operated by the Division of Family and Youth Services should be requested to provide a copy of the facility's admission log covering the monitoring period, along with a signed certification of authenticity. Some facilities submit data on a log-type form which is not an admission log; data submitted in this fashion constitute self-report data and must be verified as described in Section VI(B) of these guidelines. Note: Although some facilities operated by the Division of Family and Youth Services contain treatment units which are separate from the detention units, it is not necessary to obtain admission data from treatment units because all juveniles entering these facilities (including those placed in treatment units) must be admitted through the detention units, each of which maintains admission data for all juveniles housed in the facility in which it is located.

B. Juvenile Holdover Facilities

The juvenile probation office in Kenai should be requested to submit admission records for all juveniles detained in the juvenile holdover facility located at the Kenai Police Department. No other secure juvenile holdover facilities are currently included in the monitoring universe.

C. Adult Jails

As noted in Section II(C) of these guidelines, the Contract Jail Administrator, Department of Public Safety should be requested to arrange to have all Contract Jail Client Billing Sheets made available for you to photocopy at the Department of Public Safety (DPS) building in Juneau and a site visit should be scheduled for the purpose of copying these records. Because all Contract Jails are required to

submit these records to the Department of Public Safety, it is more efficient to photocopy them at the DPS building, rather than to request each facility to submit data separately. Since the records obtained from the Department of Public Safety will be photocopied from original records, it will be necessary for the Contract Jail Administrator to certify in writing that the records are complete as required under the contract DPS has entered with each jail.

D. Adult Correctional Facilities

Department of Corrections records are maintained on computer and juvenile records are not accessible at the individual facilities. The Commissioner of Corrections should be requested to designate a person to generate a computer printout containing the name, birthdate, race, sex, admit date/time, offense(s) and release date/time of each person admitted to every Department of Corrections facility authorized by Department policy to detain juveniles, and to provide a copy of the printout and a signed certification of authenticity. (Note: a procedure for identifying adult correctional facilities which are authorized by Department of Corrections policy to detain juveniles is described in Section III(C) of these guidelines; facilities which are **not** authorized to detain juveniles - as certified in writing by the Commissioner of Corrections - are exempt from annual monitoring).

E. Adult Lockups

The monitoring plan describes a procedure for generating a stratified cluster sample of adult lockups to be monitored each year. In practice, however, **all** lockups which can submit data by mail should be monitored; the procedure described in the monitoring plan **may** be used to generate a representative sample of facilities for **on-site** data collection if the number or geographic distribution of lockups which cannot submit data by mail is such that this procedure would be more efficient than random sampling. The method for sampling facilities for on-site data collection is discussed in Section VI(A) of these guidelines.

Each Alaska State Troopers (AST) post, Village Public Safety Officer (VPSO) or municipal police department which operates an adult lockup should be contacted by telephone and requested to provide photocopies of booking records for the monitoring period. The Director of the North Slope Borough Department of Public Safety should be requested to designate a person to collect copies of booking records for the monitoring period from the adult lockups in **Anaktuvuk Pass, Atqasuk, Kaktovik, Nuiqsut, Point Hope, Point Lay and Wainwright** and to mail them to you along with a signed certification of authenticity for each facility. Rural Alaska State Troopers (AST) posts should be contacted regarding data collection and inspection of adult lockups in **Cantwell, Delta Junction, Fort Yukon, Glenallen, Tok** and any other community where the AST post is

determined to be responsible for operation of the facility. Village Public Safety Officers should be contacted regarding data collection and inspection of adult lockups in all other communities for which a current VPSO is listed in the printout obtained from the Rural/Village Public Safety Officer Enforcement Unit Administrator, Alaska State Troopers. (See Section II(B) of these guidelines). For all remaining adult lockups, the village police chief or, if necessary, another municipal official (e.g. city manager) should be contacted regarding data collection and inspection, except where another agency is determined to be responsible for operation of the facility.

A current listing for the North Slope Borough Department of Public Safety is included in the mailing list contained in Appendix D. However, due to high turnover among personnel and shifting supervisory responsibility at most adult lockups, these facilities are not included in the mailing list. Current listings (including names, addresses and telephone numbers) for rural Alaska State Troopers (AST) posts and municipal police departments are contained in the latest edition of the Journal of the Alaska Peace Officers and Associates, which may be obtained from the Alaska Peace Officers Association (see Mailing List). Listings for municipal officials (including law enforcement personnel) may also be found in the latest edition of the Alaska Municipal Officials Directory, published by the State of Alaska, Department of Community and Regional Affairs.

Records maintained at adult lockups vary widely. Facilities which maintain admission records containing the name, birthdate, race, admit date/time, offense(s), and release date/time of each person detained during the monitoring period may simply mail you a copy of the printout and a signed certification of authenticity. It may not be possible for some facilities to submit data by mail, in which case the person in charge of the facility should be advised that a site visit may be required. Facilities which do not maintain admission records, or which maintain records which do not contain all information specified above, should be sent a copy of the Juvenile Detention Data Reporting Form (see Appendix E) and instructions regarding its use.

The person in charge of each adult lockup which is due for inspection during the current monitoring effort should be notified that an inspection will be conducted and, to the extent possible, arrangements should be made to schedule inspections. The person in charge of each lockup for which data cannot be submitted by mail should be notified that a site visit may be required.

Following the initial telephone contact with each lockup, a letter should be mailed to the person in charge of the facility, explaining the monitoring process, identifying the specific records/data which should be submitted, reinforcing the importance of timely submission of data and inviting the person to contact either you or their supervisor if there are questions concerning the monitoring itself or

authorization to release records to you. Each letter should be accompanied by a copy of the initial authorization letter sent by the Youth Corrections Administrator to the Rural/Village Public Safety Officer Enforcement Unit Administrator, Alaska State Troopers. A copy of the certification of authenticity should be enclosed for the person to sign and return with the data. A pre-addressed 8 1/2" x 11" mailer should also be provided for submission of data.

Because it is likely that some facilities will not respond to the initial request for data, it will be necessary to make follow-up calls to facilities which do not submit data within a two-week period following the initial contact. If mail-in data have not been received within a two-week period following the follow-up call, the facility should be entered on a list of facilities which cannot submit data by mail, from which a 50 percent sample will be drawn for on-site data collection. The procedure for selecting facilities for on-site data collection is described in Section VI(A) of these guidelines.

VI. SITE VISITS/INSPECTION OF FACILITIES

Excluding any adult correctional facilities which are expressly prohibited by documented Department of Corrections policy from detaining juveniles (see discussion in Section III(C) of these guidelines), one-third of all secure facilities in each classification category must be inspected annually. It may also be necessary to schedule site visits to some facilities in order to collect data. In addition, self-report data must be verified on-site at 10 percent of all facilities which submit self-report data.

A. Selecting Facilities for Site Visits

Generating a sample of facilities to schedule for site visits should proceed as follows:

- Excluding facilities which have been included in the monitoring universe for two years or less, all facilities which have not been inspected during the previous two years must be visited. A list of such facilities should be compiled based on the inspection dates indicated in the Monitoring Universe listing in Appendix B.

- One-third of all facilities in each classification category which have been added to the monitoring universe during the current monitoring period, and one-third of all facilities in each category which were added to the monitoring universe during the monitoring period immediately preceding the current one, must be inspected. The facilities selected for inspection may be chosen on the basis of their proximity to other facilities scheduled for inspection or on other appropriate criteria; representative sampling is not required. Note, however, that facilities which must be visited to collect data, etc., should be included in the inspection sample.

- A random sample of 50 percent of facilities (stratified by type of facility) for which data are determined to be available but which cannot submit data by mail must be generated. The procedure described in the monitoring plan for generating a stratified cluster sample of adult lockups to be monitored may be employed for this purpose if the number or geographic distribution of lockups which cannot submit data by mail is such that this procedure would be more efficient than stratified random sampling.

- Each facility which may provide adequate separation of juvenile and adult offenders should be inspected during the first full year following its addition to the monitoring universe or its claim to have achieved separation;

- Each facility for which an appropriate provisional classification is not apparent should be inspected during the first full year following its addition to the monitoring universe;

- Facilities for which there is evidence of a possible change of classification should be inspected during the first full year following submission of such evidence;

- If the sample generated through the procedures outlined above includes fewer than 10 percent of facilities which submitted self-report data in the current monitoring period, additional facilities must be added to ensure a 10 percent sample of these facilities.

B. Conducting Site Visits

Facilities selected for site visits should be scheduled for visitation at a time which is convenient for both facility staff and monitoring staff. Efficiency is improved to the extent that facilities which lie on a single commercial air carrier route are scheduled sequentially for site visits. It is therefore recommended that current flight schedules for all local airlines and air services in each region of the state be obtained prior to scheduling of site visits. These flight schedules should be examined carefully to determine optimum sequencing for site visits.

Initial contact with each facility which has not already been contacted regarding data collection should be by telephone, followed by a letter explaining the monitoring process and the nature of the inspection and accompanied by a copy of the initial letter of authorization sent by the Youth Corrections Administrator to the Rural/Village Public Safety Officer Enforcement Unit Administrator (Alaska State Troopers) or other appropriate official.

Each facility visited during the current monitoring effort should be inspected. As explained in the Formula Grant regulation:

> 28 CFR Part 31.303(f)(1)(i)
>
> (C) **Inspection of Facilities:** Inspection of facilities is necessary to ensure an accurate assessment of each facility's classification and record keeping. The inspection must include: (1) A review of the physical accommodations to determine whether it is a secure or non-secure facility or whether adequate sight and sound separation between juvenile and adult offenders exists and (2) a review of the record keeping system to determine whether sufficient data are maintained to determine compliance with section 223(a)(12), (13) and (14) of the JJDP Act.
>
> **--28 CFR Part 31.303(f)(1)(i)(C)**

Additionally, the Formula Grant regulation requires on-site verification of self-report data:

> 28 CFR Part 31.303(f)(1)(i)
>
> (D) . . . . If the data is self-reported by the facility or is collected and reported by an agency other than the State agency designated pursuant to section 223(a)(1) of the JJDP Act . . . a statistically valid procedure [must be] used to verify the reported data.
>
> **--28 CFR Part 31.303(f)(1)(i)(D)**

For each facility visited, notes should be prepared which contain, at a minimum:

- A general description of the jurisdiction in which the facility is located.

- A description of who (which agency) administers the facility.

- A general description of the facility, the services it provides and the clients it serves.

- A description of the security provisions and methods of supervision at the facility and a determination that the facility meets (or fails to meet) the definition of a secure facility as provided in the Formula Grant regulation. (See Section IV of these guidelines for definitions of facility types).

- A hand-sketched diagram of the facility, including the "juvenile area" of adult facilities.

- A detailed description of the provisions for sight and sound separation in adult facilities and a determination that separation of juvenile and adult inmates is adequate (or inadequate). The Separation Monitoring Report Form in Appendix E should be used for determination of the adequacy of separation. A copy of the form completed at each facility should be forwarded to the Division of Family and Youth Services upon completion of annual monitoring.

- A detailed description of the admission data reviewed. The following procedures should be followed in examining admission records:

  (1) At each facility from which mail-in data have not been received prior to the site visit it will be necessary, first, to determine whether detention records containing adequate monitoring data are systematically maintained for all persons placed in secure confinement and, if so, to collect the requisite data for all juveniles

detained at the facility during the monitoring period. (The Juvenile Detention Data Reporting Form contained in Appendix E should be used for this purpose).

(2) At each facility for which a photocopy of the facility's booking log has already been submitted by mail, you should compare not less than 10 percent of entries in the booking log with booking records contained in appropriate case files to verify the accuracy of information entered in the booking log. You should also examine a sample of not less than 10 percent of all case files which might include data pertaining to instances of detention during the current monitoring period to determine whether a booking log entry has been made each time a person has been detained at the facility.

(3) At facilities which have submitted photocopies of individual booking records, rather than a booking log, at least 10 percent of case files which might contain data pertaining to instances of detention during the current monitoring period should be examined on-site to verify that a booking record has been submitted for every instance of detention during the monitoring period.

(4) If the facility has submitted self-report data (i.e. any data which are not contained in certified reproductions of original records generated at the time of detention), a sample of not less than 10 percent of entries should be compared with original records to determine the accuracy of information reported in the self-report data, and a sample of not less than 10 percent of case files which might contain data pertaining to instances of detention during the current monitoring period should be examined to verify that all instances of detention have been reported.

(5) For each case examined at **all** facilities, booking records should be carefully examined to verify that the individual was actually placed in secure confinement, as defined in Section IV of these guidelines. A juvenile who has been "booked" at a facility, but who has not been placed in secure confinement should <u>not</u> be reported as a violation of any requirement of the JJDP Act.

- A list of findings in relation to the admission data reviewed.

- A description of the documents examined to verify any instances of detention which might constitute valid court order exceptions to the deinstitutionalization requirement of the JJDP Act and a photocopy of each document supporting designation of an instance of detention as a valid

court order exception. Verification of valid court order exceptions will require examination of facility records pertinent to each instance of juvenile detention in which the exception may apply. In each case, the person performing on-site verification must photocopy all court documents or other records which indicate the presence of conditions which must be present in order for the valid court order exception to apply, as described in 28 CFR Part 31.303(f)(3). If records are insufficient to support a determination of the presence or absence of a violation, the instance of detention must be reported as a violation of Section 223(a)(12)(A) [the deinstitutionalization requirement] of the JJDP Act. Detailed procedures for verification of valid court order exceptions are described in Section VII(C)(3) of these guidelines.

- A description of the area(s) designated for confinement and an explanation why this/these area(s) is/are secure or not secure, based on the definitions contained in Section IV of these guidelines.

The date of each inspection, and any changes in classification, should be noted in the Monitoring Universe listing in Appendix B.

VII. DATA ANALYSIS

A. Entering and Cleaning Data

Data should be entered in an ascii format for analysis using SPSSx or comparable software. The following data for each case must be entered for each instance of secure detention in an adult facility involving a juvenile who is under 18 years of age and for each instance of secure detention in a juvenile detention center involving a juvenile who is under 18 years of age and who is not confirmed to be an accused or adjudicated criminal-type offender as defined in Section VII(B) of these guidelines:

Identification Number
Facility
Name or Initials of Juvenile
Date of Birth
Race
Sex
Date Admitted
Time Admitted
Offense(s)
Date Released
Time Released
Total Hours (if indicated in facility records)

Data entry from booking logs or juvenile detention center admission logs will be expedited if all cases which must be entered are highlighted with a marking pen prior to data entry. For adult facilities, this may be accomplished by highlighting/entering data for all persons whose year of birth is consistent with possible juvenile status (e.g. in monitoring for juvenile incarceration in 1990, all cases involving persons whose year of birth is 1972 or later may be entered, and SPSSx commands can be used to eliminate those who had reached their 18th birthday prior to the date of detention). For juvenile facilities, data should be entered for all juveniles except those for whom a criminal-type offense (NOT including possession or consumption of alcohol, which must be defined as a status offense for monitoring purposes) is clearly indicated as the reason for detention.

Once all data have been entered, the data should be cleaned to remove incorrectly entered data. No special techniques are required in data cleaning, provided that generally acceptable methods are employed. A discussion of data cleaning methods is beyond the scope of this manual. If guidance is required, it is recommended that a research methods text be consulted.

B. Classification of Offenders

The following definitions of offender types are contained in the Formula Grant regulation:

> 28 CFR Part 31.304
>
> (d) **Juvenile who is accused of having committed an offense.** A juvenile with respect to whom a petition has been filed in the juvenile court or other action has occurred alleging that such juvenile is a juvenile offender, i.e. a criminal-type offender or a status offender, and no final adjudication has been made by the juvenile court.
>
> (e) **Juvenile who has been adjudicated as having committed an offense.** A juvenile with respect to whom the juvenile court has determined that such juvenile is a juvenile offender, i.e. a criminal-type offender or a status offender.
>
> (f) **Juvenile offender.** An individual subject to the exercise of juvenile court jurisdiction for purposes of adjudication and treatment based on age and offense limitations as defined by State law, i.e. a criminal-type offender or a status offender.
>
> (g) **Criminal-type offender.** A juvenile offender who has been charged with or adjudicated for conduct which would, under the law of the jurisdiction in which the offense was committed, be a crime if committed by an adult.
>
> (h) **Status offender.** A juvenile offender who has been charged with or adjudicated for conduct which would not, under the law of the jurisdiction in which the offense was committed, be a crime if committed by an adult.
>
> (i) **Non-offender.** A juvenile who is subject to the jurisdiction of the juvenile court, usually under abuse, dependency, or neglect statutes for reasons other than legally prohibited conduct of the juvenile.
>
> **--28 CFR Part 31.304(d), (e), (f), (g), (h) and (i)**

The following procedures should be used in classifying juveniles as accused criminal-type offenders, adjudicated criminal-type offenders, accused status offenders and adjudicated status offenders for purposes of JJDP monitoring:

1. Accused Criminal-type Offenders

Juveniles detained for the following should be classified as **accused criminal-type offenders** for purposes of JJDP monitoring:

Violation of Alaska Statutes
- Title 11 (Criminal Law)
- Title 16 (Fish and Game)
- Title 28 (Motor Vehicles)

Violation of local traffic ordinances
Traffic Warrants
Failure to Appear
Contempt of Court
Material Witness
Violation of any other statute or ordinance for which a person may be sentenced to a jail or prison term **except** violations of AS 4.16.050, possession or consumption [of alcohol] by persons under the age of 21, in which case the juvenile should be classified as an accused status offender as described below

2. Adjudicated Criminal-type Offenders

Subject to the verification procedures described in Section VII(C)(2) of these guidelines, juveniles detained for any of the following reasons should be classified as **adjudicated criminal-type offenders** unless (1) the juvenile is accused of committing a new criminal-type offense, in which case the juvenile should be classified as an accused criminal-type offender, or (2) conditions of probation were imposed pursuant to an adjudication for violation of AS 4.16.050 (possession or consumption of alcohol), in which case the juvenile should be classified as an adjudicated status offender:

Probation Violation
Violation of Conditions of Release
Warrant (Bench Warrant, Juvenile Pick-up Order)
Detention Order (Court Order)
Transfer
Juvenile Hold (Juvenile Probation Hold)
Delinquent Minor
Agency Assist
Sentence (Serve Time)
Re-book (RBK)
Failure to Serve Time
AWOL (Leaving Placement)

3. Accused Status Offenders

Juveniles detained for the following should be classified as **accused status offenders** for purposes of JJDP monitoring:

Possession or consumption of alcohol (minor consuming alcohol, minor in possession, minor on premises)
Curfew violations
Runaway
Protective Custody (Alcohol) in excess of 12 hours as prescribed in AS 47.37.170

4. Adjudicated Status Offenders

In addition to juveniles identified as children in need of aid under the provisions of AS 47.10.010 or comparable statutes governing juvenile court jurisdiction in other states, juveniles detained for any of the reasons identified in Section VII(B)(2) of these guidelines should be classified as **adjudicated status offenders** if their names and birthdates are included on the list of juveniles previously adjudicated delinquent for possession or consumption of alcohol described in Section VII(C)(2) of these guidelines or if the verification procedures described in Section VII(C)(2) reveal that they are adjudicated status offenders.

5. Nonoffenders

Juveniles detained because they are victims of child abuse or neglect should be classified as **nonoffenders** for purposes of JJDP monitoring.

6. Protective Custody

Juveniles detained in adult jails, lockups and correctional facilities for protective custody under AS 47.30.705 (which provides for emergency detention of mentally ill persons where "considerations of safety do not allow initiation of involuntary commitment procedures . . .") or AS 47.37.170 (which provides for emergency detention of persons who are incapacitated by alcohol in a public place) should be counted as violations of Section 223(a)(13) [the separation requirement] of the JJDP Act. However, because juveniles are accorded the same treatment given adults taken into custody under the protective custody statutes, instances of detention involving juveniles lawfully detained under protective custody statutes should not be be counted as violations of either Section 223(a)(12)(A) [the deinstitutionalization requirement] or Section 223(a)(14) [the jail removal requirement] of the JJDP Act. Because AS 47.37.170

permits protective custody of a person who is incapacitated by alcohol for no more than 12 hours, any juvenile held under this statute for longer than 12 hours should be deemed an accused status offender for JJDP monitoring purposes, since consumption of alcohol in violation of AS 4.16.050 is a status offense. In JJDP monitoring, the 12-hour limit should be applied to all protective custody cases except those for which facility records indicate that protective custody was based on mental illness under AS 47.30.705. There is no definitive time limit for protective custody of mentally ill persons. The following terms are used in detention records to designate protective custody cases:

Protective Custody (PC)
Protective Custody - Alcohol
Protective Custody - Mental
Noncriminal Booking
Detox
Sleep Off
Mental Hold
Title 47

Many shorthand terms, acronyms, etc. are used by individual facilities to indicate reasons for detention. Definitions and proper offender-type classifications for terms commonly used by facilities in previous years are contained in Appendix C.

C. Special Problems in Classification of Offenders

1. Multiple Offenses

Where a juvenile is charged with multiple offenses of different types, the following rules should be applied to determine the appropriate offender-type classification:

(i) If **protective custody** is given as one of the reasons for detention, the offender-type should be protective custody **except** where the lawful duration of protective custody has been exceeded. In this event, rules (ii) through (v) should be followed.

(ii) If a criminal-type offense (including traffic offenses and fish and game violations) is charged **and** there is no indication that the juvenile was adjudicated or convicted for this offense prior to detention, the offender-type should be accused criminal-type offender **except** where rule (i) applies.

(iii) If **probation violation** or **violation of conditions of release** or **sentence** or **warrant** or **detention order** is given as one of the reasons for detention **and** the juvenile is determined to have been placed on probation for a criminal-type offense, the offender-type should be adjudicated criminal-type offender **except** where rule (i) or rule (ii) applies.

(iv) If a **status offense** (including possession or consumption of alcohol) is charged **and** there is no indication that the juvenile has already been adjudicated for this offense, the offender-type should be accused status offender **except** where rule (i) or rule (ii) or rule (iii) applies.

(v) If **probation violation** or **violation of conditions of release** or **sentence** or **warrant** or **detention order** is given as one of the reasons for detention **and** the juvenile is determined to have previously been either placed on probation for a status offense (i.e. minor consuming alcohol) or adjudicated a Child In Need of Aid (CINA), the offender-type should be adjudicated status offender **except** where rule (i) or rule (ii) or rule (iii) or rule (iv) applies.

2. Probation Violations, Warrants, Detention Orders, etc.

Where the reason for detention is one of the following, the juvenile should be classified as an adjudicated criminal-type offender, **unless** additional information indicates a more appropriate classification **or** the results of the verification procedures described below necessitate a different method of classification:

Probation Violation
Violation of Conditions of Release
Warrant (Bench Warrant, Juvenile Pick-up Order)
Detention Order (Court Order)
Transfer
Juvenile Hold (Juvenile Probation Hold)
Delinquent Minor
Agency Assist
Sentence (Serve Time)
Re-book (RBK)
Failure to Serve Time
AWOL (Leaving Placement)

In order to verify this method of classifying these instances of detention, the following procedure should be followed:

Each instance of detention involving a juvenile detained for one of the reasons listed above must be checked against a comprehensive list of juveniles adjudicated delinquent for violation of AS 4.16.050 (possession or consumption of alcohol by persons under 21) on or after January 1, 1985. This list, hereafter identified as the MCA (minor consuming alcohol) list, is maintained by the Youth Corrections Administrator, Division of Family and Youth Services. The Youth Corrections Administrator should be asked to update the MCA list each year by requesting each intake/probation office in the Youth Corrections Section to report the name and date of referral for each juvenile adjudicated delinquent for minor consuming alcohol during the previous year. The list need not include juveniles who were already on probation for criminal-type offenses at the time of the MCA adjudication, but any subsequent adjudication for a criminal-type offense should be noted. Juveniles whose names are on the updated MCA list should be classified as adjudicated status offenders **except** where (a) the juvenile was subsequently adjudicated for a criminal-type offense and the current instance of detention took place **after** the subsequent adjudication (in which case the juvenile should be classified as an adjudicated criminal-type offender), or (b) a more appropriate classification is indicated pursuant to the rules for classifying juveniles charged with multiple offenses. (See Section VII(C)(1) of these guidelines). Juveniles whose names are **not** on the updated MCA list **and** who were detained for **Probation Violation** should be classified as adjudicated criminal-type offenders **except** where a more appropriate classification is indicated by the classification rules. Further verification, as described below, is required for all other cases described in this section.

Instances of detention pursuant to a warrant or court order (except those for which additional information is sufficient to properly classify the juvenile), and instances of detention where one of the other reasons for detention listed above (**except** Probation Violation) is indicated, should also be verified through a check of facility records at at least one juvenile detention center where such instances of detention occured during the current monitoring period. This will require examination of facility and/or other records pertaining to all such instances of detention which took place at the facility during the current monitoring period. For each case, the reason for issuance of the warrant or court order - or the specific reason for detention, if none is indicated in records submitted by mail - and the probation status of the juvenile should be determined. If any instances of detention verified in this manner are determined to involve juveniles who are not adjudicated criminal-type offenders or juveniles who have been adjudicated delinquent for possessing or consuming alcohol, it will be necessary **either** to (a) verify all other instances of detention pursuant to warrants, detention orders or other reasons listed above on a case-by-case

basis or (b) devise a method for projecting an appropriate classification for each instance of detention which has not been verified, based on the distribution of offender-types among the instances of detention which were subjected to verification.

3. Valid Court Orders

Under Section 223(a)(12)(A) [the deinstitutionalization requirement] of the JJDP Act, any instance of detention involving a status offender or nonoffender who is detained for violation of a valid court order does **not** constitute a violation of the deinstitutionalization requirement, provided that a detention hearing is held within 24 hours. As provided in the Formula Grant regulation:

> 28 CFR Part 31.303(f)
>
> (3) **Valid Court Order.** For the purpose of determining whether a valid court order exists and a juvenile has been found to be in violation of that valid order all of the following conditions must be present prior to secure incarceration:
>
> (i) The juvenile must have been brought into a court of competent jurisdiction and made subject to an order issued pursuant to proper authority. The order must be one which regulates future conduct of the juvenile.
>
> (ii) The court must have entered a judgment and/or remedy in accord with established legal principles based on the facts after a hearing which observes the proper procedures.
>
> (iii) The juvenile in question must have received adequate and fair warning of the consequences of violation of the order at the time it was issued and such warning must be provided to the juvenile and to the juvenile's attorney and/or legal guardian in writing and be reflected in the court record and proceedings.
>
> (iv) All judicial proceedings related to an alleged violation of a valid court order must be held before a court of competent jurisdiction. A juvenile accused of violating a valid court order may be held in secure detention beyond the 24-hour grace period permitted for a noncriminal juvenile offender under OJJDP monitoring policy, for protective purposes as prescribed by State law, or to assure the juvenile's appearance at the violation hearing, as provided by State law, if there has been a judicial determination based on a hearing during the 24-hour grace period that there is probable cause to believe the juvenile violated the court order. In such case the juveniles may be held pending a violation hearing for such period of time as is provided by State law, but in no event should detention prior to a violation hearing exceed 72 hours exclusive of nonjudicial days. A juvenile found in a violation hearing to have violated a court order may be held in a secure detention or correctional facility.
>
> (v) Prior to and during the violation hearing the following full due process rights must be provided:

(A) The right to have the charges against the juvenile in writing served upon him a reasonable time before the hearing;

(B) The right to a hearing before a court;

(C) The right to an explanation of the nature and consequences of the proceeding;

(D) The right to legal counsel, and the right to have such counsel appointed by the court if indigent;

(E) The right to confront witnesses;

(F) The right to present witnesses;

(G) The right to have a transcript or record of the proceedings; and

(H) The right of appeal to an appropriate court.

(vi) In entering any order that directs or authorizes disposition of placement in a secure facility, the judge presiding over an initial probable cause hearing or violation hearing must determine that all the elements of a valid court order (paragraphs (f)(3)(i), (ii) and (iii) of this section) and the applicable due process rights (paragraph (f)(3)(v) of this section) were afforded the juvenile and, in the case of a violation hearing, the judge must determine that there is no less restrictive alternative appropriate to the needs of the juvenile and the community.

(vii) A non-offender such as a dependent or neglected child cannot be placed in secure detention or correctional facilities for violating a valid court order.

--28 CFR Part 31.303(f)(3)

Valid court order exceptions to the requirements of Section 223(a)(12)(A) [the deinstitutionalization requirement] must be verified on a case-by-case basis. To determine whether the valid court order exception applies, the following procedure should be followed:

For each instance of detention of an accused status offender for more than 24 hours (not including weekends and holidays), and each instance of detention of an adjudicated status offender for any length of time, photocopies of all pertinent court documents should be obtained from the facility, the court or the probation officer or intake officer handling the case. This may be accomplished when the facility is inspected, or appropriate documentation may be submitted by mail. For the exception to apply, there must be evidence that each of the requirements indicated in the Formula Grant regulation is present. If facility records are insufficient to support a determination that the valid court order exception applies, the instance of detention must be reported as a violation of Section 223(a)(12)(A) [the deinstitutionalization requirement] of the JJDP Act. The following documentation is sufficient to verify each valid court order exception:

- A court order clearly intended to regulate future conduct of the child (e.g. disposition order placing the child under conditions of probation);

- A detention order or other record indicating that the juvenile was detained for violating the court order and that a detention hearing was held at the time of detention or within the 24-hour grace period; and

- An adjudication order or other record indicating that a violation hearing was held within 72 hours should also be obtained. Note: The Formula Grant regulation indicates that a violation hearing **should** be held within 72 hours, but this is **not** a requirement which must be present in order for the valid court order exception to apply.

4. Inadequate Offense Data

Admission records and other records at at least one juvenile detention facility should be examined to determine the reason for detention in instances where offense information submitted by the facility is not sufficient to permit determination of the appropriate offender-type classification. This should be done at the same time as the verification of offender-type classifications discussed in Section VII(C)(2) of these guidelines. A list of all instances of detention for which the reason for detention is inadequately specified should be sent to the facility with a request that facility staff provide documentation (e.g. a photocopy of the admission record or the arrest report prepared by the arresting officer) of the reason for detention in each case. A procedure for projecting offense data for instances of detention for which no reason for detention is recorded and for instances of detention at adult facilities where insufficient offense data have been submitted is described in Section VII(E)(4) of these guidelines.

D. Determining Duration of Detention

The Formula Grant regulation provides for a 24-hour grace period during which an accused status offender may be held in either a secure juvenile facility or a secure adult facility without violating the deinstitutionalization requirement of the JJDP Act. The Formula Grant regulation also provides for a 6-hour grace period during which an accused criminal-type offender may be held in a secure adult facility without violating the jail removal requirement of the act. Procedures for calculating the duration of detention to determine whether a juvenile was released within the applicable grace period are as follows:

1. 24-Hour Grace Period

The Formula Grant regulation requires states to report as violations of the deinstitutionalization requirement the "[t]otal number of accused status offenders and non-offenders held in any secure detention or correctional facility as defined in §31.303(f)(2) for longer than 24 hours (not including weekends and holidays), excluding those held pursuant to the valid court order provision as defined in paragraph (f)(3) of this section." [28 CFR Part 31.303(f)(5)(i)(C)].

For each instance of detention where all data relevant to determination of the duration of detention (i.e. date in, time in, date out, time out) are available, initial computation of the duration of detention is straightforward and can be accomplished using a computerized time interval computation function such as the YRMODA function contained in SPSSx software. Where data for one or more of these variables are missing, logical inferences may be employed to supplement computerized calculations (e.g. if date in and date out are the same, it can reasonably be inferred that the duration of detention is less than 24 hours even if time in and time out data are missing). For cases lacking sufficient data for duration of detention to be either calculated or inferred, the data projection method described in Section VII(E)(3)(a) of these guidelines should be employed.

Once duration of detention is calculated, inferred or projected for all cases involving accused status offenders, a printout of all cases in which detention extended beyond the 24-hour grace period should be generated. This printout should identify each case and show the date and time of admission and release for each instance of detention. Each case should be individually checked to determine whether the detention period included any portion of a weekend or judicial holiday. Judicial holidays and business hours for superior and district courts are described in Rules 16 and 18 of Alaska Rules of Court, Rules Governing the Administration of All Courts:

> **Rule 16. Judicial Holidays - Transaction of Business**
>
> **(a) Judicial Holidays.** Subject to the provisions of AS 22.10.050 and AS 22.15.090, no court shall be open for the transaction of business on any judicial holiday as defined herein unless ordered by the presiding judge for good cause shown.
>
> Judicial holidays are:
>
> (1) Every Sunday;
>
> (2) The first of January, known as New Year's Day;
>
> (3) The 12th of February, known as Lincoln's Birthday;
>
> (4) The third Monday in February, known as Washington's Birthday;

(5) The last Monday of March, known as Seward's Day;
(6) The last Monday in May, known as Memorial Day;
(7) The fourth of July, known as Independence Day;
(8) The first Monday in September, known as Labor Day;
(9) The 18th of October, known as Alaska Day;
(10) The 11th of November, known as Veteran's Day;
(11) The fourth Thursday in November, known as Thanksgiving Day;
(12) The 25th of December, known as Christmas Day;
(13) Every day designated by public proclamation by the President of the United States or the Governor of the state as a legal holiday.

If any day specified or provided for as a holiday in this rule falls on a day appointed for the holding or sitting of a court, or to which it is adjourned, it shall be deemed appointed for or adjourned to the next day not a judicial holiday.

(b) Holidays Falling on Sunday or Saturday. If any holiday designated in Rule 16(a)(2) through (12) falls upon a Sunday, the Monday following is a holiday and if it falls on a Saturday, the Friday preceding is a holiday.

(c) Special or Limited Holidays. On any special or limited holiday, all courts shall be open and function in their normal and usual manner. A special or limited holiday is a holiday applying only to a special class or classes of persons, and not appointed to be generally observed throughout the state by all classes of business and all classes of persons.

Rule 18. Superior and District Courts -Time and Place of Sitting

(a) Superior and District Courts -When Open for Business. The superior and district courts shall be open for the transaction of business during business hours from 8:00 a.m. until 4:30 p.m. on all days except judicial holidays and Saturdays; provided, however, that the courts may at any time extend these hours as circumstances may require or as may be ordered by the presiding judge.

--Alaska Rules of Court, Rules Governing the Administration of All Courts, Rule 16 and Rule 18(a)

For each case involving detention during any portion of the period between 4:30 p.m. on a Friday or the day before a judicial holiday and 8:00 a.m. on a Monday or the day after a judicial holiday, the duration of detention should be re-calculated to reflect only that portion which occurred before and/or after the weekend or holiday. Any case(s) which are determined through re-calculation of the duration of detention to fall within the 24-hour grace period should **not** be reported as violations.

2. 6-Hour Grace Period

The Formula Grant regulation requires states to report as violations of the jail removal requirement the "[t]otal number of juvenile criminal-type

offenders held in adult jails in excess of six hours" [28 CFR Part 31.303(f)(5)(iv)(G)] and the "[t]otal number of juvenile criminal-type offenders held in adult lockups in excess of six hours" [28 CFR Part 31.303(f)(5)(iv)(H)]. The Office of Juvenile Justice and Delinquency Prevention has interpreted these sections to apply only to **accused** criminal-type offenders**; adjudicated** criminal-type offenders may not be held in adult facilities for **any** length of time.

As with computation of duration of detention for accused status offenders, calculations are straightforward if data are available for all relevant variables (i.e. date in, time in, date out, time out). The YRMODA function in SPSSx, or a comparable function, should be used for this purpose. Where data for one or more of these variables are missing, logical inferences may be employed to supplement computerized calculations (e.g. if date in and date out are the same, and time in is 6:00 p.m. or later, it can reasonably be inferred that the duration of detention is less than 6 hours even if time out data are missing). For cases lacking sufficient data for duration of detention to be either calculated or inferred, the data projection method described in Section VII(E)(3)(b) of these guidelines should be employed. Note that there are no provisions in the Formula Grant regulation or elsewhere for excluding weekends and holidays in determining whether the 6-hour grace period has been exceeded. **All** cases involving accused criminal-type offenders for whom the duration of detention is calculated, inferred or projected to exceed six hours must be reported as violations of the jail removal requirement.

E. Data Projection

1. Partial Data for Monitoring Period

Complete data for the entire monitoring period should be collected from each facility included in the monitoring effort. It is possible, however, that data for the full monitoring period may be unavailable for some facilities. In this event, it will be necessary to project data for such facilities to cover the entire monitoring period. This should be done by computing, for each facility, the proportion of the year for which data are available and weighting each instance of detention at the facility by a factor equal to the reciprocal of that proportion. Thus, for example, each instance of juvenile detention at a facility for which data are unavailable for the period between November 22, 1988 and December 31, 1988 should be weighted by a factor of 1.12 (366 days in the year divided by 327 days elapsed prior to November 22nd). With this weighting procedure, instances of noncompliant detention during the portion of the year for which data are unavailable are projected to have occurred at a rate

identical to the rate of noncompliant detention during that portion of the year for which data are available.

2. Inadequate Admission Data

Data for facilities which fail to submit data or whose records are determined to be inadequate for monitoring purposes should be projected for each type of facility by assigning a weight equal to the reciprocal of the proportion of all facilities of that type represented by those included in the analysis to each case involving detention of a juvenile in that type of facility. Thus, for example, if there are 90 adult lockups in the monitoring universe, but adequate data are obtained from only 50 of them, each instance of detention at an adult lockup should be weighted by a factor of 1.8 (90 adult lockups in the monitoring universe divided by 50 adult lockups from which adequate data were obtained).

3. Duration of Detention

In addition to projection of data for facilities for which less than a full year of data are collected and for facilities which do not maintain adequate records, it may be necessary to project data regarding duration of detention for cases for which such data are inadequate. Separate procedures should be followed in projecting data to determine the number of instances of detention involving (a) accused status offenders held for more than 24 hours in violation of the deinstitutionalization requirement and (b) accused criminal-type offenders held in adult facilities for more than 6 hours in violation of the jail removal requirement). Procedures for making both projections are as follows:

a. Accused Status Offenders (Deinstitutionalization)

Projection of data regarding duration of detention for cases involving accused status offenders where records are insufficient to determine whether the 24-hour grace period permitted under 28 CFR Part 31.303(f)(5)(i)(C) has been exceeded should proceed as follows: The proportion of cases in which detention extended beyond the 24-hour grace period should be computed for all cases involving detention of status offenders and for which all variables used in computation of the duration of detention are available. The cases for which duration of detention cannot be determined should each be assigned a weight equal to the proportion of noncompliant instances among all cases involving detention of status offenders for which all pertinent data are available.

b. Accused Criminal-type Offenders (Jail Removal)

In order to determine the appropriate weight to assign each case involving accused criminal-type offenders for which data sufficient to determine the duration of detention are unavailable, the proportion of cases in which detention extended beyond the 6-hour grace period should be computed for all cases involving detention of an accused criminal-type offender in an adult facility and for which all variables used in computation of the duration of detention are available. Each case for which duration of detention cannot be determined should be assigned a weight equal to the proportion of noncompliant instances among all cases involving detention in adult facilities of juveniles accused of criminal-type offenses for which sufficient data are available.

4. Inadequate Offense Data

Data projection for cases where the reason for detention is inadequately specified will require computation, for each type of facility, of the proportion of accused criminal-type offenders, adjudicated criminal-type offenders, accused status offenders and adjudicated status offenders among all instances of juvenile detention for which records are sufficiently complete to permit identification of the type of offender. Weights should be assigned as follows:

- In calculations employed to determine the total number of accused criminal-type offenders held in adult facilities for more than six hours in violation of the jail removal requirement (item F7 in the monitoring report), each case for which offense information is inadequate should be assigned a weight equal to the proportion of accused criminal-type offenders among all juveniles detained in the same type of facility and for which records are sufficiently complete to permit identification of the type of offender.

- In calculation of the total number of adjudicated criminal-type offenders held in adult facilities for any length of time in violation of the jail removal requirement (item F9), each case for which offense information is inadequate should be assigned a weight equal to the proportion of adjudicated criminal-type offenders among all instances of detention in the same type of facility and for which offense information is adequate.

- In calculations used to determine the total number of accused and adjudicated status offenders held for any length of time in adult

facilities in violation of the jail removal requirement (item F11), each case for which offense information is inadequate should be weighted by a factor equal to the proportion of accused and adjudicated status offenders among all instances of detention in the same type of facility and for which offense information is adequate.

- In calculations employed to determine the total number of accused status offenders held over 24 hours in violation of the deinstitutionalization requirement (item B5), each case for which offense information is inadequate should be assigned a weight equal to the proportion of accused status offenders among all juveniles detained in the same type of facility and for which records are sufficiently complete to permit identification of the type of offender

- In calculations used to determine the total number of adjudicated status offenders held for any length of time in violation of the deinstitutionalization requirement (item B6), each case for which offense information is inadequate should be assigned a weight equal to the proportion of adjudicated status offenders among all juveniles detained in the same type of facility and for which records are sufficient for identification of the type of offender.

5. Inadequate Age Data

Cases with missing or obviously incorrect birthdates should be recoded to indicate that the person is a juvenile where detention occurs at a juvenile detention center. Where data for facilities which house juveniles and adults include such cases, these cases should be weighted as follows: Records submitted by some facilities identify detainees as juveniles or adults (e.g. the Client Billing Sheets submitted by jails which provide adult detention services under contract with the Department of Public Safety contain a separate column in which juvenile charges are entered). It should be possible to identify cases which do not include a birthdate but provide some indication whether the person is an adult or juvenile and to determine the proportion of juveniles among these cases. A weight equal to this proportion should be assigned each case for which no indication of age is present. Each case for which age status is indicated should be counted as an instance of juvenile detention only if the person is identified as a juvenile.

6. Data Projection in Practice

The weighting procedure described above - involving data projection for facilities which are unable to submit adequate data, for facilities from

which data for less than the full year have been obtained, for cases lacking sufficient data to determine the duration of detention, for cases in which data are insufficient for identification of the type of offender and for cases where the age of the offender cannot be determined - is most easily implemented in practice by assigning a weight equivalent to the product of the five separate weights to each case. Because the product of the five weights may be less than 1.00 for the majority of weighted cases (i.e. those in which offense data, age data and/or data related to duration of detention are inadequate), the projected number of noncompliant instances for both the deinstitutionalization and jail removal sections of the monitoring report may be smaller than the number of unweighted cases upon which it is based.

VIII. PREPARATION OF MONITORING REPORT

The information which must be included in monitoring reports is described in the Formula Grant regulation as follows:

28 CFR Part 31.303(f)

(5) **Reporting Requirement**. The State shall report annually to the Administrator of OJJDP on the results of monitoring for section 223(a)(12), (13), and (14) of the JJDP Act. The reporting period should provide 12 months of data, but shall not be less than 6 months. Three copies of the report shall be submitted to the Administrator of OJJDP no later than December 31 of each year.

(i) To demonstrate the extent of compliance with section 223(a)(12)(A) of the JJDP Act, the report must at least include the following information for both the baseline and the current reporting periods.

(A) Dates of baseline and current reporting period.

(B) Total number of public and private secure detention and correctional facilities AND the number inspected on-site.

(C) Total number of accused status offenders and non-offenders held in any secure detention or correctional facility as defined in §31.303(f)(2) for longer than 24 hours (not including weekends and holidays), excluding those held pursuant to the valid court order provision as defined in paragraph (f)(3) of this section.

(D) Total number of adjudicated status offenders and non-offenders held in any secure detention or correctional facility as defined in §31.303(f)(2), excluding those held pursuant to the valid court order provision as defined in paragraph (f)(3) of this section.

(E) Total number of status offenders held in any secure detention or correctional facility pursuant to a judicial determination that the juvenile violated a valid court order as defined in paragraph (f)(3) of this section.

(ii) To demonstrate the extent to which the provisions of section 223(a)(12)(B) of the JJDP Act are being met, the report must include the total number of accused and adjudicated status offenders and non-offenders placed in facilities that are:

(A) Not near their home community;

(B) Not the least restrictive appropriate alternative; and

(C) Not community based.

(iii) To demonstrate the progress toward and extent of compliance with section 223(a)(13) of the JJDP Act, the report must at least include the following information for both the baseline and the current reporting periods.

(A) Designated date for achieving full compliance.

(B) The total number of facilities used to detain or confine both juvenile offenders and adult criminal offenders during the past 12 months AND the number inspected on-site.

(C) The total number of facilities used for secure detention and confinement of both juvenile offenders and adult criminal offenders which did not provide adequate separation.

(D) The total number of juvenile offenders and non-offenders NOT adequately separated in facilities used for the secure detention and confinement of both juveniles and adults.

(iv) To demonstrate the progress toward and extent of compliance with section 223(a)(14) of the JJDP Act the report must at least include the following information for the baseline and current reporting periods:

(A) Dates of baseline and current reporting period.

(B) Total number of adult jails in the State AND the number inspected on-site.

(C) Total number of adult lockups in the State AND the number inspected on-site.

(D) Total number of adult jails holding juveniles during the past twelve months.

(E) Total number of adult lockups holding juveniles during the past twelve months.

(F) Total number of adult jails and lockups in areas meeting the "removal exception" as noted in paragraph (f)(4) of this section, including a list of such facilities and the county or jurisdiction in which it is located.

(G) Total number of juvenile criminal-type offenders held in adult lockups in excess of six hours.

(H) Total number of juvenile criminal-type offenders held in adult lockups in excess of six hours.

(I) Total number of accused and adjudicated status offenders and non-offenders held in any adult jail or lockup.

(J) Total number of juveniles accused of a criminal-type offense who were held in excess of six hours but less that 24 hours in adult jails and lockups in areas meeting the "removal exception" as noted in paragraph (f)(4) of this section.

--28 CFR Part 31.303(f)(5)

The Formula Grant regulation also requires the state to document the extent to which the requirements of the JJDP Act are met:

28 CFR Part 31.303(f)

(6) **Compliance**. The State must demonstrate the extent to which the requirements of section 223(a)(12)(A), (13), and (14) of the Act are met. Should the State fail to demonstrate compliance with the requirements of this Section within the designated time frames, eligibility for formula grant funding shall terminate. The compliance levels are:

(i) **Substantial compliance** with section 223(a)(12)(A) requires within three years of initial plan submission achievement of a 75% reduction in the aggregate number of status offenders and non-offenders held in secure detention or correctional facilities or removal of 100% of such offenders from secure correctional facilities only. In addition, the State must make an unequivocal commitment, through appropriate executive or legislative action, to achieving full compliance within two additional years. **Full compliance** is achieved when a State has removed 100% of such juveniles from secure detention and correctional facilities or can demonstrate full compliance with **de minimis** exceptions pursuant to the policy criteria contained in the Federal Register of January 9, 1981 (46 FR 2568-2569).

(ii) **Compliance** with section 223(a)(13) has been achieved when a State can demonstrate that:

(A) The last submitted monitoring report, covering a full 12 months of data, demonstrates that no juveniles were incarcerated in circumstances that were in violation of section 223(a)(13); or

(B)(1) State law, regulation, court rule, or other established executive or judicial policy clearly prohibits the incarceration of all juvenile offenders in circumstances that would be in violation of section 223(a)(13);

(2) All instances of noncompliance reported in the last submitted monitoring report were in violation of, or departures from, the State law, rule or policy referred to in paragraph (f)(6)(ii)(B)(1) of this section;

(3) The instances of noncompliance do not indicate a pattern or practice but rather constitute isolated instances; and

(4) Existing mechanisms for the enforcement of the State law, rule, or policy referred to in paragraph (f)(6)(ii)(B)(1) of this section are such that the instances of noncompliance are unlikely to recur in the future.

(iii)(A) Substantial compliance with section 223(a)(14) requires:

(1) The achievement of a 75% reduction in the number of juveniles held in adult jails and lockups after December 8, 1985; or

(2) That a state demonstrate it has met each of the standards set forth in paragraphs (f)(6)(iii)(A)(2)(i)-(iv) of this section:

(i) Removed all status and nonoffender juveniles from adult jails and lockups. Compliance with this standard requires that the last submitted monitoring report demonstrate that no status offender (including those accused of or adjudicated for violating a valid court order) or nonoffender juveniles were securely detained in adult jails or lockups for any length of time; or, that all status offenders and nonoffenders securely detained in adult jails and lockups for any length of time were held in violation of an enforceable state law and did not constitute a pattern or practice within the state;

(ii) Made meaningful progress in removing other juveniles from adult jails and lockups. Compliance with this standard requires the state to document a significant reduction in the number of jurisdictions securely detaining juvenile criminal-type offenders in violation of section 223(a)(14) of the JJDP Act; or, a significant reduction in the number of facilities securely detaining such juveniles; or, a significant reduction in the number of juvenile criminal-type offenders securely detained in violation of section 223(1)(14) of the JJDP Act; or, a significant reduction in the average length of time each juvenile criminal-type offender is securely detained in an adult jail or lockup; or, that state legislation has recently been enacted and taken effect and which the state demonstrates will significantly impact the secure detention of juvenile criminal-type offenders in adult jails and lockups;

(iii) Diligently carried out the state's jail and lockup removal plan approved by OJJDP. Compliance with this standard requires that actions have been undertaken to achieve the state's jail and lockup removal goals and objectives within approved timelines, and that the State Advisory Group, required by section 223(1)(3) of the JJDP Act, has maintained an appropriate involvement in developing and/or implementing the state's plan;

(iv) Historically expended and continues to expend an appropriate and significant share of its Formula Grant funds to comply with Section 223(a)(14). Compliance with this standard requires that, based on an average from two (2) Formula Grant Awards, a minimum of 40 percent of the program funds was expended to support jail and lockup removal programs; or that the state provides a justification which supports the conclusion that a lesser amount constituted an appropriate and significant share because the state's existent jail and lockup removal barriers did not require a larger expenditure of Formula Grant Program funds; and

(3) The state has made an unequivocal commitment, through appropriate executive or legislative action, to achieving full compliance within a reasonable time but in no event may such time extend beyond December 8, 1988.

(B) Full compliance is achieved when a state demonstrates that the last submitted monitoring report, covering 12 months of actual data, demonstrates that no juveniles were held in adult jails or lockups in circumstances that were in violation of section 223(a)(14).

(C) Full compliance with de minimis exceptions is achieved when a State demonstrates that it has met the standard set forth in either of paragraphs (f)(6)(iii)(C)(1) or (2) of this section:

(1) **Substantive De Minimis Standard.** To comply with this standard the state must demonstrate that each of the following requirements have been met:

(i) State law, court rule, or other statewide executive or judicial policy clearly prohibits the detention or confinement of all juveniles in circumstances that would be in violation of section 223(a)(14);

(ii) **All** instances of noncompliance reported in the last submitted monitoring report were in violation of or departures from, the state law, rule, or policy referred to in paragraph (f)(6)(iii)(C)(1)(i) of this section;

(iii) The instances of noncompliance do not indicate a pattern or practice but rather constitute isolated instances;

(iv) Existing mechanisms for the enforcement of the state law, rule, or policy referred to in paragraph (f)(6)(iii)(C)(1)(i) of this section are such that the instances of noncompliance are unlikely to recur in the future; and

(v) An acceptable plan has been developed to eliminate the noncompliant incidents and to monitor the existing mechanism referred to in paragraph (f)(6)(iii)(C)(1)(iv) of this section.

(2) **Numerical De Minimis Standard.** To comply with this standard the state must demonstrate that each of the following requirements under paragraphs (f)(6)(iii)(C)(2)(i) and (ii) of this section have been met:

(i) The incidents of noncompliance reported in the state's last submitted monitoring report do not exceed an annual rate of 9 per 100,000 juvenile population of the state;

(ii) An acceptable plan has been developed to eliminate the noncompliant incidents through the enactment or enforcement of state law, rule, or statewide executive or judicial policy, education, the provision of alternatives, or other effective means.

(iii) Exception. When the annual rate for a state exceeds 9 incidents of noncompliance per 100,000 juvenile population, the state will be considered ineligible for a finding of full compliance with de minimis exceptions under the numerical de minimis standard unless the state has recently enacted changes in state law which have gone into effect and which the state demonstrates can reasonably be expected to have a substantial, significant and positive impact on the state's achieving full (100%) compliance or full compliance with de minimis exceptions by the end of the monitoring period immediately following the monitoring period under consideration.

(iv) Progress. Beginning with the monitoring report due by December 31, 1990, any state whose prior full compliance status is based on having met the numerical de minimis standard set forth in paragraph (f)(6)(iii)(C)(2)(i) of §31.303, must annually demonstrate, in its request for a finding of full compliance with de minimis exceptions, continued and meaningful progress toward achieving full (100%) compliance with de minimis exceptions.

(v) Request Submission. Determinations of full compliance and full compliance with de minimis exceptions are made annually by OJJDP following submission of the monitoring report due by December 31 of each calendar year. Any state reporting less than full (100%) compliance may request a finding of full compliance with de minimis exceptions under paragraph (f)(6)(iii)(C)(1) or (2) of this section. The request must be submitted in conjunction with the monitoring report, as soon thereafter as all information required for a determination is available, or be included in the annual state plan and application for the state's Formula Grant Award.

(D) Waiver. (1) Failure to achieve substantial compliance as defined in this section shall terminate any state's eligibility for Formula Grant funds unless the Administrator of OJJDP waives termination of the state's eligibility. In order to be eligible for a waiver of termination, a state must submit a waiver request which demonstrates that it meets the standards set forth in paragraph (f)(6)(iii)(D)(1)(i)-(v) of this section:

(i) Agrees to expend all of its Formula Grant Award except planning and administration, advisory group set aside, and Indian-tribe pass-through funds, to achieve compliance with section 223(a)(14); and

(ii) Diligently carried out the state's jail and lockup removal plan as set forth in paragraph (f)(6)(iii)(A)(2)(iii) of this section; and

(iii) Submitted an acceptable plan, based on an assessment of current jail and lockup removal barriers within the state, to eliminate noncompliant incidents; and

(iv) Achieved compliance with section 223(a)(15) of the JJDP Act; and

(v) Demonstrates a commitment, through appropriate executive or legislative action, to achieving full compliance.

(2) Failure to achieve full compliance as defined in this section shall terminate any state's eligibility for Formula Grant funds unless the Administrator of OJJDP waives termination of the state's eligibility. In order to be eligible for this waiver of termination, a state must request a waiver and demonstrate that it meets the standards set forth in paragraphs (f)(6)(iii)(D)(2)(i)-(vii) of this section:

(i) Agrees to expend all of its Formula Grant Award except planning and administration, advisory group set aside, and Indian tribe pass-through funds, to achieve compliance with section 223(a)(14); and

(ii) Removed all status and nonoffender juveniles from adult jails and lockups as set forth in paragraph (f)(6)(iii)(A)(2)(i) of this section; and

(iii) Made meaningful progress in removing other juveniles from adult jails and lockups as set forth in paragraphs (f)(6)(iii)(A)(2)(ii) of this section; and

(iv) Diligently carried out the state's jail and lockup removal plan as set forth in paragraph (f)(6)(iii)(A)(2)(iii) of this section; and

(v) Submitted an acceptable plan, based on an assessment of current jail and lockup removal barriers within the state, to eliminate noncompliant incidents; and

(vi) Achieved compliance with section 223(a)(15) of the JJDP Act; and

(vii) Demonstrates a commitment, through appropriate executive or legislative action, to achieving full compliance.

(E) Waiver Maximum. A state may receive a waiver of termination of eligibility from the Administrator under paragraph (f)(6)(iii)(D)(1) and

(2) of this section for a combined maximum of three Formula Grant Awards. No additional waivers will be granted.

--28 CFR Part 31.303(f)(6)

The monitoring report form mandated by the Office of Juvenile Justice and Delinquency Prevention (OJJDP) for use in preparation of monitoring reports is contained in Appendix E. The format generally follows the Reporting Requirement described in the Formula Grant regulation [28 CFR Part 31.303(f)(5)], sequentially addressing the deinstitutionalization, separation and jail removal requirements and providing separate sections for documentation relevant to requests for findings of full compliance, full compliance with de minimis exceptions and substantial compliance for both the deinstitutionalization and jail removal requirements, as described in 28 CFR 31.303(f)(6). It should be noted that two sections pertaining to monitoring in the Formula Grant regulation - 28 CFR Part 31.303(f)(4), which provides for exceptions to the jail removal requirement, and 28 CFR Part 31.303(f)(7), which exempts certain states from the annual monitoring report requirements - are not applicable to Alaska at this time and are therefore not addressed in the monitoring guidelines. Responses to Items F13 and F14

in the monitoring report form should indicate that no adult jails and lockups are in areas meeting the "removal exception" (Item F13) and that no juveniles accused of criminal-type offenses were held in excess of six hours but less than twenty-four hours in adult jails and lockups in areas meeting this exception (Item F14). The monitoring report exception will not be applicable to Alaska until the state has achieved full compliance with Section 223(a)(12)(A) [the deinstitutionalization requirement] and compliance with Section 223(a)(13) [the separation requirement] of the JJDP Act and a written request for exemption from the annual monitoring report requirements is approved by OJJDP.

The 1989 compliance monitoring report for Alaska is contained in Part 8 of this volume. Narrative text and data for baseline reporting periods may be drawn from this or other previous monitoring reports wherever appropriate. The JJDP Act, the Formula Grant regulation and other pertinent regulations are also contained in this volume, as are the most recent audit of Alaska's compliance monitoring system, the Revised 1987 Jail Removal Plan and the Three Year Plan submitted with the 1987 Formula Grant application. These documents, and the policy statements, legal opinions, regulations and other materials contained in Volume 1 of the Formula Grants Program Manual issued by OJJDP, should be consulted as necessary to clarify reporting requirements or other issues. OJJDP is also willing to provide additional technical assistance by telephone if necessary.

APPENDIX A

CHECKLIST OF MONITORING ACTIVITIES

APPENDIX A

CHECKLIST OF MONITORING ACTIVITIES

I. Introduction - Read monitoring guidelines and supporting materials
II. Startup/Initial Contacts - Contact the following officials to obtain authorization letters, etc.:
    A. Youth Corrections Administrator, Division of Family and Youth Services
    B. Rural/Village Public Safety Officer Enforcement Unit Administrator, Alaska State Troopers Associations
    C. Contract Jail Administrator, Department of Public Safety
    D. Commissioner of Corrections
    E. Administrative Director, Alaska Court System
    F. Director, North Slope Borough Department of Public Safety
    G. VPSO Coordinators, Regional Nonprofit Native Associations
III. Identification of the Monitoring Universe Contact the following officials to update the monitoring universe:
    A. Village Oversight Troopers, Alaska State Troopers
    B. Contract Jail Administrator, Department of Public Safety
    C. Commissioner of Corrections
    D. Administrative Director, Alaska Court System
    E. Director, North Slope Borough Department of Public Safety
    F. Youth Corrections Administrator, Division of Family and Youth Services
IV. Classification of the Monitoring Universe Classify new facilities and re-classify facilities as necessary
V. Data Collection - Request submission of monitoring data for all facilities in the following categories:
    A. Juvenile Detention Centers
    B. Juvenile Holdover Facilities
    C. Adult Jails
    D. Adult Correctional Facilities
    E. Adult Lockups
VI. Site Visits/Inspection of Facilities
    A. Select Facilities for Site Visits
    B. Conduct Site Visits

- Continued Next Page -

VII. Data Analysis
- A. Enter and Clean Data
- B. Classify Offenders
  1. Accused Criminal-type Offenders
  2. Adjudicated Criminal-type Offenders
  3. Accused Status Offenders
  4. Adjudicated Status Offenders
  5. Nonoffenders
  6. Protective Custody
- C. Resolve Special Problems in Classification of Offenders:
  1. Multiple Offenses
  2. Probation Violations, Warrants, Detention Orders, etc.
  3. Valid Court Orders
  4. Inadequate Offense Data
- D. Determine Duration of Detention - Use separate procedures to calculate duration of detention for use in identifying violations of:
  1. 24-hour Grace Period
  2. 6-hour Grace Period
- E. Data Projection - Determine appropriate weights to assign cases with missing or inadequate data:
  1. Partial Data for Monitoring Period
  2. Inadequate Admission Data
  3. Inadequate Duration of Detention Data
     a. Accused Status Offenders (Deinstitutionalization)
     b. Accused Criminal-type Offenders (Jail Removal)
  4. Inadequate Offense Data
  5. Inadequate Age Data
  6. Data Projection in Practice - Follow appropriate procedures for weighting cases in computerized data analysis

VIII. Prepare Monitoring Report

APPENDIX B

MONITORING UNIVERSE

APPENDIX B

MONITORING UNIVERSE - SECURE FACILITIES

FACILITY/ YEAR ADDED	1987 DATA/INSP		1988 DATA/INSP		1989 DATA/INSP		1990 DATA/INSP	1991 DATA/INSP
JUVENILE DETENTION CENTERS								
Bethel	x	x	x	x	x			
Fairbanks	x		x		x			
Johnson Center/Juneau	x		x		x	x		
McLaughlin/Anchorage	x	x	x	x	x			
Nome	x		x		x	x		
JUVENILE HOLDOVER FACILITIES								
Kenai (1989)	n/a	n/a	n/a	n/a	x	x		
ADULT JAILS								
Barrow	x		x		x	x		
Cordova	x	x	x	x	x			
Craig	x		x		x	x		
Dillingham	x		x		x			
Haines	x		x		x	x		
Homer	x	x	x	x	x			
Kake	x		x		x	x		
Kodiak	x		x		x			
Kotzebue	x		x		x	x		
Naknek	x		x		x			
Petersburg	x		x		x	x		
Seldovia	x	x	x	x	x			
*Seward	x	x	x	x	x			
*Sitka	x		x		x	x		
Unalaska	x		x		x			
Valdez	x	x	x	x	x			
Wrangell	x		x		x	x		

MONITORING UNIVERSE - SECURE FACILITIES
(Continued)

FACILITY/ YEAR ADDED	1987 DATA	1987 INSP	1988 DATA	1988 INSP	1989 DATA	1989 INSP	1990 DATA/INSP	1991 DATA/INSP
ADULT CORRECTIONAL FACILITIES								
+Anchorage Annex	n/a	n/a	n/a	n/a	n/a	n/a		
+Anvil Mountain/Nome	n/a	n/a	n/a	n/a	n/a	n/a		
+Cook Inlet Pre-trial/Anch.	n/a	n/a	n/a	n/a	n/a	n/a		
+Fairbanks	n/a	n/a	n/a	n/a	n/a	n/a		
+Hiland Mountain/Eagle R.	n/a	n/a	n/a	n/a	n/a	n/a		
Ketchikan	x		x		x	x		
+Lemon Creek/Juneau	n/a	n/a	n/a	n/a	n/a	n/a		
Mat-Su Pre-trial/Palmer	x	x	x	x	x			
+Meadow Creek/Eagle R.	n/a	n/a	n/a	n/a	n/a	n/a		
+Palmer	n/a	n/a	n/a	n/a	n/a	n/a		
+Spring Creek/Seward	n/a	n/a	n/a	n/a	n/a	n/a		
+Wildwood/Kenai	n/a	n/a	n/a	n/a	n/a	n/a		
+Wildwood Pre-trial/Kenai	n/a	n/a	n/a	n/a	n/a	n/a		
+Yukon-Kuskokwim/Bethel	x	x	x	x	n/a	n/a		
ADULT LOCKUPS♦								
Akiachak (1987)		x		x				
Akutan (1987)	x		x					
Alakanuk (1987)								
Ambler (1987)						x		
Anaktuvuk Pass/NSB (1987)	x		x		x	x		
Angoon (1987)					x	x		
Aniak (1987)		x		x				
Atmautluak (1987)								
Atqasuk/NSB (1987)	x		x		x	x		
Cantwell (1987)	x	x	x	x				
Chevak (1987)	x	x	x	x	x			
Chignik (1989)	n/a	n/a	n/a	n/a	x	x		
Cold Bay (1987)	x	x	x	x	x			
Deadhorse (1987)	x			x	x	x		

MONITORING UNIVERSE - SECURE FACILITIES
(Continued)

FACILITY/ YEAR ADDED	1987 DATA	1987 INSP	1988 DATA	1988 INSP	1989 DATA	1989 INSP	1990 DATA/INSP	1991 DATA/INSP
ADULT LOCKUPS (Continued)								
Deering (1987)						x		
Delta Junction/AST (1987)	x	x	x	x	x			
Eek (1987)								
Ekwok (1987)					x			
Elim (1987)						x		
Emmonak (1987)								
Fort Yukon/AST (1987)		x	x	x	x			
Galena (1987)	x	x	x	x	x			
Gambell (1987)						x		
Glenallen/AST (1989)	n/a	n/a	n/a	n/a	x	x		
Golovin (1987)					x	x		
Goodnews Bay (1987)								
Hoonah (1987)					x	x		
Hooper Bay (1987)						x		
Huslia (1987)		x		x				
Kaktovik/NSB (1989)	n/a	n/a	n/a	n/a	x	x		
Kaltag (1987)		x		x				
Karluk (1987)	x		x					
Kasigluk (1989)	n/a	n/a	n/a	n/a		x		
Kiana (1987)					x	x		
King Cove (1987)	x	x	x	x	x			
Kipnuk (1989)	n/a	n/a	n/a	n/a				
Kivalina (1987)		x		x				
Kobuk (1987)								
Kotlik (1987)								
Koyuk (1987)					x			
Koyukuk (1989)	n/a	n/a	n/a	n/a	x			
Kwethluk (1987)		x		x				
Lower Kalskag (1989)	n/a	n/a	n/a	n/a	x			
Manokotak (1987)								
Marshall (1987)					x	x		

MONITORING UNIVERSE - SECURE FACILITIES
(Continued)

FACILITY/ YEAR ADDED	1987 DATA/INSP		1988 DATA/INSP		1989 DATA/INSP		1990 DATA/INSP	1991 DATA/INSP
ADULT LOCKUPS (Continued)								
McGrath (1989)	n/a	n/a	n/a	n/a				
Mekoryuk (1987)	x		x		x			
Mountain Village (1987)								
Napakiak (1987)								
Napaskiak (1987)		x		x				
Nenana (1987)	x	x	x	x	x			
Nightmute (1989)	n/a	n/a	n/a	n/a	x			
Nondalton (1987)					n/a	n/a		
Noorvik (1987)	x	x	x	x				
Nuiqsut/NSB (1987)	x		x		x	x		
Nulato (1987)		x		x				
Nunapitchuk (1987)						x		
Old Harbor (1987)	x		x					
Pelican (1987)					x	x		
Pilot Station (1987)						x		
Point Hope/NSB (1987)	x		x		x	x		
Point Lay/NSB (1987)					x	x		
Port Heiden (1987)					x	x		
Quinhagak (1987)					x	x		
Ruby (1987)		x		x				
Saint Mary's (1987)					x	x		
Saint Paul (1987)	x	x	x	x				
Sand Point (1989)	n/a	n/a	n/a	n/a				
Savoonga (1987)						x		
Scammon Bay (1987)						x		
Selawik (1987)					x	x		
Shaktoolik (1987)								
Shishmaref (1987)								
Shungnak (1987)						x		
Skagway (1989)	n/a	n/a	n/a	n/a	x	x		
Stebbins (1987)		x		x				

MONITORING UNIVERSE - SECURE FACILITIES
(Continued)

FACILITY/ YEAR ADDED	1987 DATA	1987 INSP	1988 DATA	1988 INSP	1989 DATA	1989 INSP	1990 DATA/INSP	1991 DATA/INSP
ADULT LOCKUPS (Continued)								
Tanana (1987)	x	x	x	x				
Teller (1987)	x		x					
Togiak (1987)								
Tok/AST (1987)	x	x	x	x	x			
Toksook Bay (1987)					x	x		
Tununak (1987)								
Tuntutuliak (1989)	n/a	n/a	n/a	n/a	x			
Unalakleet (1987)	x	x	x	x				
Wainwright/NSB (1987)	x		x		x	x		
Whittier (1989)	n/a	n/a	n/a	n/a	x	x		
Yakutat (1987)	x	x	x	x	x			

FACILITIES REMOVED FROM MONITORING UNIVERSE:

ADULT LOCKUPS:
Akiak
Russian Mission
Saint Michael
Wales

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*This symbol denotes adult facilities which provide sight and sound separation of juvenile and adult inmates.

+This symbol denotes adult correctional facilities which are prohibited from detaining juveniles by documented Department of Corrections policy.

♦All adult lockups are operated by municipal police departments or Village Public Safety Officers unless otherwise noted. The letters "NSB" denote adult lockups operated by the North Slope Borough Department of Corrections. The letters "AST" denote adult lockups operated by Alaska State Troopers.

APPENDIX C

ACRONYMS AND ABBREVIATIONS COMMONLY USED IN DETENTION RECORDS

APPENDIX C

ACRONYMS AND ABBREVIATIONS COMMONLY USED IN DETENTION RECORDS

ENTRY	DESCRIPTION	OFFENDER-TYPE
A	Assault	acc. crim.
AWOL	Away without leave	adj. crim.*
BIAD	Burglary in a dwelling	acc. crim.
BNIAD	Burglary not in a dwelling	acc. crim.
BTR	Blood test refusal	acc. crim.
BURG	Burglary	acc. crim.
BW (B/W)	Bench warrant	adj. crim.*
CCW	Carrying a concealed weapon	acc. crim.
CINA	Child in need of aid	adj. stat.
CM	Criminal mischief	acc. crim.
CO	Court order	adj. crim.*
CT	Criminal trespass	acc. crim.
CV	Curfew	acc. stat.
DC	Disorderly conduct	acc. crim.
DETHOLD	Detention hold	adj. crim.*
DETOX	Detoxification	protective custody**
DO	Detention order	adj. crim.*
DWI	Driving while intoxicated	acc. crim.
DWLR	Driving with license revoked	acc. crim.
DWLS	Driving with license suspended	acc. crim.
FLTM	Furnishing liquor to a minor	acc. crim.
FTA	Failure to appear	acc. crim.
FTSJ	Failure to satisfy judgement	acc. crim.
FTST	Failure to serve time	adj. crim.*
H	Harassment	acc. crim.
K	Kidnapping	acc. crim.
MC	Minor consuming	acc. stat.
MCA	Minor consuming alcohol	acc. stat.
MICS	Misconduct involving a controlled substance	acc. crim.
MIP	Minor in possession (alcohol)	acc. stat.
MIPBC	Minor in possession or consuming	acc. stat.
MIPC	Minor in possession or consuming	acc. stat.
MIW	Misconduct involving weapons	acc. crim.
MOP	Minor on premises	acc. stat.
NONCRIM	Noncriminal booking	protective custody**
OMVI	Operating motor vehicle while intoxicated	acc. crim.
ORIG:	Re-admit; original charge was....	no violation

ACRONYMS AND ABBREVIATIONS COMMONLY USED IN DETENTION RECORDS
(Continued)

ENTRY	DESCRIPTION	OFFENDER-TYPE
PR	Probation revocation	adj. crim.*
PC (P/C)	Protective custody	protective custody**
PREV	Previously admitted on this offense	no violation
PV (P/V)	Probation violation	adj. crim.*
R	Robbery	acc. crim.
RAR	Resisting arrest	acc. crim.
RBK	Re-book	adj. crim.*
RD	Reckless driving	acc. crim.
SA	Sexual assault	acc. crim.
SAM	Sexual abuse of a minor	acc. crim.
SAWL	Sale of alcohol without license	acc. crim.
SOLWOL	Sale of liquor without license	acc. crim.
ST (S/T)	Serve time	adj. crim.*
TH	Theft	acc. crim.
TITLE 47	Protective custody	protective custody**
VCP	Violation of conditions of probation	adj. crim.*
VCR	Violation of conditions of release	adj. crim.*
VOR	Violation of release	adj. crim.*
WA (W/A)	Warrant	adj. crim.*
WAR	Warrant	adj. crim.*
WE	Weapons	acc. crim.
WT	Warrant	adj. crim.*

*An asterisk (*) indicates that verification is required.

**Unless records indicate that protective custody is based on mental illness under AS 47.30.705, protective custody for more than 12 hours as permitted under AS 47.37.170 should be re-coded as minor consuming alcohol (AS 04.16.050).

APPENDIX D

MAILING LIST

APPENDIX D
MAILING LIST

Effective Date: November 1, 1990

Youth Corrections Administrator, Division of Family and Youth Services

Richard Illias **Telephone:** 265-5095
Youth Corrections Administrator
State of Alaska
Department of Health and Social Services
Division of Family and Youth Services
550 West Eighth Avenue, Suite 304
Anchorage, Alaska 99501

Contract Jail Administrator, Department of Public Safety

Captain Thomas Stearns **Telephone:** 465-4322
Contract Jail Administrator
Department of Public Safety
P. O. Box N
Juneau, Alaska 99811

Rural/Village Public Safety Officer Enforcement Unit Administrator, Alaska State Troopers

Captain Glenn Godfrey **Telephone:** 269-5647
Rural/Village Public Safety
Officer Enforcement Unit
Alaska State Troopers
5700 E. Tudor Road
Anchorage, Alaska 99507

Commissioner, Department of Corrections

Susan Humphrey-Barnett **Telephone:** 465-3376
Commissioner
State of Alaska
Department of Corrections
P. O. Box T
Juneau, Alaska 99811

Village Oversight Troopers, Alaska State Troopers

Obtain current listing of village oversight Troopers (including names, addresses and telephone numbers) from the Rural/Village Public Safety Officer Enforcement Unit Administrator, Alaska State Troopers.

Regional Nonprofit Native Associations

Ms. Gloria Simeon
VPSO Coordinator
Association of Village Council Presidents
P.O. Box 219
Bethel, Alaska 99559

Ms. Deborah Tennyson
Executive Director
Bristol Bay Native Association
P.O. Box 310
Dillingham, Alaska 99576

Mr. George Cole
VPSO Coordinator
Central Council of Tlingit-Haida
Indian Tribes of Alaska
320 W. Willoughby Avenue, Suite 300
Juneau, Alaska 99801

Ms. Terry Hesseltine
VPSO Coordinator
Manillaq Manpower, Inc.
P.O. Box 725
Kotzebue, Alaska 99752

Ms. Josie Stiles
VPSO Coordinator
Kawerak, Inc.
P.O. Box 946
Nome, Alaska 99762

Ms. Dolly Reft
VPSO Coordinator
Kodiak Area Native Association
402 Center Avenue
Kodiak, Alaska 99615

Mr. Richard See
VPSO Coordinator
Aleutian/Pribilof Islands Association
1689 "C" Street, Suite 205
Anchorage, Alaska 99501

Ms. Jennifer Bousquet
Executive Director
Eeda Regional Consortium of Tribes
1689 "C" Street, Suite 141
Anchorage, Alaska 99501

Regional Nonprofit Native Associations (Continued)

Mr. Derenty Tabios
Executive Director
The North Pacific Rim
3300 "C" Street
Anchorage, Alaska 99503

Mr. Jerry Woods
VPSO Coordinator
Tanana Chiefs Conference
Doyon Building
201 First Avenue
Fairbanks, Alaska 99707

Juvenile Detention Centers

Ms. Patricia Leeman
Superintendent
Bethel Youth Facility
P.O. Box 1988
Bethel, Alaska 99559
Telephone: 543-5200

Mr. Bill Holder
Superintendent
Fairbanks Youth Facility
1502 Wilber
Fairbanks, Alaska 99701
Telephone: 452-3454

Mr. Greg Roth
Superintendent
Johnson Youth Center
3252 Hospital Drive
Juneau, Alaska 99801
Telephone: 586-9433

Dean Dixon
Associate Superintendent/
Detention Programs
McLaughlin Youth Center
2600 Providence Drive
Anchorage, Alaska 99504
Telephone: 561-1433

Mr. Steve McComb
Superintendent
Nome Youth Facility
P.O. Box 1750
Nome, Alaska 99762
Telephone: 443-5434

Juvenile Holdover Facilities

Karen Rogers
District Supervisor
Kenai Youth Services
145 Main Street Loop, Room 207
Kenai, Alaska 99611

Adult Jails

Dennis Packer **Telephone:** 852-6111
Director
North Slope Borough Department of Public Safety
P.O. Box 470
Barrow, Alaska 99723

Donald Yerrick **Telephone:** 424-7475
Chief of Police
Cordova Department of Public Safety
P.O. Box 1210
Cordova, Alaska 99574

Mr. Jim See **Telephone:** 826-3330
Acting Chief of Police
Craig Police Department
P.O. Box 25
Craig, Alaska 99921

Glenn Herbst **Telephone:** 842-5172
Chief of Police
Dillingham Police Department
P.O. Box 869
Dillingham, Alaska 99576

Robert Smart **Telephone:**
Chief of Police
Haines Police Department
P.O. Box 1049
Haines, Alaska 99827

Michael Daugherty **Telephone:** 235-3150
Director
Homer Department of Public Safety
4060 Heath Street
Homer, Alaska 99603

Greg Goodman **Telephone:** 785-3804
Chief of Police
Kake Police Department
P.O. Box 500
Kake, Alaska 99830

John Marshall **Telephone:** 486-3221
Chief of Police
Kodiak Police Department
217 Lower Mill Bay Road
Kodiak, Alaska 99615

Adult Jails (Continued)

Edward Ward **Telephone:** 442-3351
Director of Public Safety
Kotzebue Police Department
P.O. Box 46
Kotzebue, Alaska 99752

Chief of Police **Telephone:** 246-4222
Bristol Bay Borough Police Department
P.O. Box 189
Naknek, Alaska 99633

Bob Oszman **Telephone:** 772-3838
Chief of Police
Petersburg Police Department
P.O. Box 329
Petersburg, Alaska 99833

A.W. Anderson **Telephone:** 234-7640
Chief of Police
Seldovia Police Department
P.O. Box 221
Seldovia, Alaska 99663

Louis Bencardino **Telephone:** 224-3338
Chief of Police
Seward Police Department
P.O. Box 167
Seward, Alaska 99664

John Newell **Telephone:** 747-3245
Chief of Police
Sitka Police Department
304 Lake Street
Sitka, Alaska 99835

Michael Shetler **Telephone:** 581-1233
Director
Unalaska Department of Public Safety
P.O. Box 112
Unalaska, Alaska 99685

Bert Cottle **Telephone:** 835-4560
Chief of Police
Valdez Department of Emergency Services
P.O. Box 307
Valdez, Alaska 99686

Brent Moody **Telephone:** 874-3304
Chief of Police
Wrangell Police Department
431 Zimovia Highway, Box 531
Wrangell, Alaska 99929

Adult Correctional Facilities

Alan Bailey **Telephone:** 225-2828
Superintendent
Ketchikan Correctional Center
P.O. Box 8880
Ketchikan, Alaska 99901

Michael Dindinger **Telephone:** 745-0943
Superintendent
Mat-Su Pre-trial Facility
339 East Dogwood
Palmer, Alaska 99645

Adult Lockups/Village Public Safety Officers (VPSOs)

Obtain current listing of Village Public Safety Officers (including names, addresses and telephone numbers) from the Rural/Village Public Safety Officer Enforcement Unit Administrator, Alaska State Troopers. Communications regarding data collection and inspection of adult lockups in Alaska Native villages should be directed to the Village Public Safety Officer (VPSO) except where no VPSO is present in a community or another agency is responsible for operation of the facility.

Adult Lockups/Rural Posts, Alaska State Troopers

Obtain current information from the most recent issue of the Journal of the Alaska Peace Officers and Associates, which may be obtained from the Alaska Peace Officers Association (see below for mailing address). Rural Alaska State Troopers (AST) posts should be contacted regarding data collection and inspection of adult lockups in each community where the AST post is determined to be responsible for operation of the facility.

Adult Lockups/Municipal Police Departments

Obtain current information from the most recent issue of the Journal of the Alaska Peace Officers and Associates, which may be obtained from the Alaska Peace Officers Association (see below for mailing address). Municipal police departments should be contacted regarding data collection and inspection of adult lockups in Alaska Native villages only where no Village Public Safety Officer (VPSO) is present in the community or the municipal police department is determined to be responsible for operation of the facility.

Director/North Slope Borough Department of Public Safety

Dennis Packer **Telephone:** 852-6111
Director
North Slope Borough Department of Public Safety
P.O. Box 470
Barrow, Alaska 99723

Alaska Peace Officers Association

Alaska Peace Officers Association
P.O. Box 240106
Anchorage, Alaska 99524

State Representative, Office of Juvenile Justice and Delinquency Prevention, United States Department of Justice

Jeff Allison **Telephone:** (202) 724-5924
Office of Juvenile Justice and
Delinquency Prevention
633 Indiana Avenue, Northwest
Washington, D.C. 20531

Community Research Associates

Community Research Associates **Telephone:**
115 Neil Street, Suite 302
Champaign, Illinois 61820

APPENDIX E

MONITORING FORMS

DFYS MONITORING UNIVERSE SURVEY FORM

AREA SURVEYED:_____ DATE:_____
TROOPER'S NAME:_____ TELEPHONE:_____

INTRODUCTION: WE ARE CONDUCTING A SURVEY OF HOLDING CELLS AND LOCKUPS FOR THE STATE OF ALASKA DIVISION OF FAMILY AND YOUTH SERVICES. PRIOR TO BEGINNING OUR CALLS, WE HAVE OBTAINED THE PERMISSION AND APPROVAL OF CAPTAIN GLENN GODFREY.

WILL YOU PLEASE TELL ME THE NAMES OF VILLAGES LOCATED IN YOUR AREA OF RESPONSIBILITY? [LIST NAMES BELOW]

DO THESE VILLAGES HAVE HOLDING CELLS?

NAME OF VILLAGE	HOLDING CELLS		
	YES	NO	DONT KNOW

[IF TROOPER CANNOT INDICATE WHETHER A VILLAGE HAS A HOLDING CELL ASK FOR THE NAME AND NUMBER OF A PERSON IN THE DETACHMENT WHO MIGHT BE ABLE TO PROVIDE THE REQUESTED INFORMATION. LIST.

DEFINITION OF HOLDING CELL: ANY SECURE PUBLIC OR PRIVATE PLACE IN WHICH INDIVIDUALS MIGHT BE HELD PURSUANT TO PUBLIC AUTHORITY.

COMMENTS:_____

ADULT LOCKUP QUESTIONNAIRE

Introduction: **The Justice Center at UAA is working with the State Division of Family and Youth Services to collect information on juveniles detained in jails and lockups throughout Alaska. We are working closely with the Alaska State Troopers and have notified your oversight trooper that we would probably be contacting you. We have also notified the VPSO Coordinator of your nonprofit about this call and the project that we are working on. I am calling to ask several questions about your community's holding cell(s) and about the records you keep on people you detain.**

Community Name: _____ Municipal Police Department? Yes No

VPSO/VPO Name: _____ Telephone Number: _____

Nonprofit Association: _____ VPSO Coordinator: _____

Oversight Trooper: _____ Telephone Number: _____

Dates and types of Contact: _____

_____

_____

1. **Does your community have a holding cell or lockup? [If "no", "has there <u>ever</u> been a holding cell?" Thank and terminate call.]**

2. In general, about how often do you use your lockup?

3. Have juveniles been held in the lockup in the past two years? If so, do you remember why?

4. Do you use a booking log to record information on the people who are placed in the lockup? [OBTAIN DESCRIPTION OF THEIR RECORDS, WHAT THEY CONTAIN, HOW THEY ARE ORGANIZED.]

5. Exactly what information is entered in the log (or on some other form)? We need: **date in, time in, name or initials, age or birthdate, offense, sex, race, date out, time out.** Do you have all of this information or only some of it?

6. Is this information filled out on every person who is detained or on only some of the people?

7. What other types of records do you keep on people put in your lockup? (i.e. case files, arrest records, etc.) [DESCRIBE.]

8. Is it possible to <u>cross-check</u> information on people admitted into your lockup with information from other files? On each prisoner?

9. We are interested in being able to <u>verify</u> times, dates, charges, ages, names, etc. Do you think this could be done if we were to look at your files?

[IF SOME TYPE OF LOG OR CONSISTENT RECORD OF DETENTIONS ON OTHER FORMS IS MAINTAINED AT THE LOCKUP:]

10. Do you have a copy machine or access to use one?

11. Would you be able to send us copies of the records for all 1989 admissions into your lockup (both adult and juvenile)? We must have copies of the original forms, is that possible?

[Remind that we have authority to collect this information and that we will send them authorization from Captain Glenn Godfrey, if they request. Refer them also to their nonprofit association VPSO Coordinators since they, too, know about the project.]

VPSO OR LOCKUP MAILING ADDRESS: _____

_____

_____

_____

12. We will send a statement for you to sign when the records are copied and mailed. Your signature on this form is necessary. This form states that the records you are sending to us are copies of the original documents. Federal guidelines require that you sign this form or else we cannot count the information you send us in the research.

When you receive the statement and copy the information, please send the package to:

Emily Read, Project Manager
Justice Center
University of Alaska Anchorage
3211 Providence Drive
Anchorage, Alaska 99508

If you have any questions, please call us collect at 786-1821 or 786-1821.
We may be calling you back in order to schedule a visit to your lockup, especially if we are traveling to the area. If we do plan on visiting We'll let you know at least a week in advance.

[IF RECORDS ARE NOT CONSISTENTLY MAINTAINED AT THE LOCKUP OR IF IT IS NOT POSSIBLE TO MAIL IN THE DETENTION INFORMATION:]

It is important that we collect information from your lockup, so I need to arrange a site visit to look at your records and at the lockup itself. It should only take me a few hours at most to collect the information and inspect the lockup, but I'll need to have someone meet me and show me the jail and records.

10. Is there any time when it wouldn't be convienent for us to visit?

11. What are your days off?

12. Is it possible to fly in and fly out of your village on the same day?

13. What airlines fly into your village?

14. Is there a Bed and Breakfast or a hotel to stay at?

VILLAGE SUMMARY SHEET

Village: *Cluster:*

Native Association:

Contact: Date:
Notes:

Letter Sent:

Trooper Detachment:

Contact: Date:
Notes:

Letter Sent:

Village *Population:*

Mayor: Phone:
Administrator/City Manager:
VPSO/VPO: Phone:

Contact: Date:
Notes:

Facility?

Records?

Date Letter Sent:

Next Step:

CERTIFICATION OF AUTHENTICITY AND COMPLETENESS OF RECORDS

I, _____, hereby certify that the enclosed
(print name)

documents contain the following information about every person admitted to the _____ in _____,
(name of facility) (community)

Alaska in 1989: Date in, time in, name (or initials), birthdate, sex, race, offense/charge, date out, time out.

Signature _____ Date _____

Title _____

CERTIFICATION OF NO PRISONERS HELD

I, _____, certify to the best of my
(name)

knowledge no prisoners or other persons have been held

in the _____ holding cell(s)
(community name)

during the calender year 1989.

_____
(signature)

_____
(title)

_____
(date)

JUVENILE DETENTION DATA REPORTING FORM

HOLDING INSTITUTION: _____

FOR YEAR: _____

DATE IN	TIME IN	NAME	DOB	SEX	RACE	CHARGE	DATE OUT	TIME OUT

JJDP MONITORING UNIT

SEPARATION MONITORING REPORT

Name of Facility _____ Phone _____

Superintendent _____

Dates of Inspection _____ _____ _____

Please note to what extent separation of juvenile and adult offenders exists in the areas listed below.

Please use the following code in describing the degree of separation:

(1) Adult inmates and juveniles can have physical, visual, and aural contact with each other (no separation).

(2) Adult inmates and juveniles cannot have physical contact with each other, but they can see or hear each other (physical separation).

(3) Conversation possible between adult inmates and juveniles although they cannot see each other (sight separation).

(4) Adult inmates and juveniles can see each other but no conversation is possible (sound separation).

(5) Adult inmates and juveniles within the same facility cannot see each other and no conversation is possible (sight and sound separation).

(6) Adult inmates and juveniles are not placed in the same facility (environmental separation).

	1	2	3	4	5	6
Reception						
Housing						
Dining						
Recreation						
Education						
Vocation/Work						
Visiting						
Transportation						
Medical/Dental						
Detention/Segregation						

Does the facility utilize adult trustees for supervision of juvenile ?

YES NO

CHECKLIST TO DETERMINE VALID COURT ORDER VIOLATIONS

This checklist may be used to determine whether an individual non-criminal juvenile offender (i.e., status offender) was under a valid court order and whether such juvenile has either been accused of violating valid court order or found to be in violation of a valid order. Such determination may result in his/her placement in a secure facility pursuant to Section 223(a)(12)(A) of the JJDP Act, as amended.

A. DETERMINING WHETHER A VALID COURT ORDER EXISTS

1. Was the juvenile brought into a court of competent jurisdiction and made subject to an order issued pursuant to proper authority?

   _____ Yes
   _____ No
   _____ Unknown

2. Was the order one which regulated the future conduct of the juvenile?

   _____ Yes
   _____ No
   _____ Unknown

3. Was a hearing conducted which observed proper procedures?

   _____ Yes
   _____ No
   _____ Unknown

4. Did the court enter a judgment and/or remedy in accord with established legal principles?

   _____ Yes
   _____ No
   _____ Unknown

5. Did the juvenile in question receive adequate and fair warning of the consequences of violating the order at the time it was issued?

   _____ Yes
   _____ No
   _____ Unknown

6. Was such warning provided to the juvenile and to his attorney and/or his legal guardian in writing?

   _____ Yes
   _____ No
   _____ Unknown

7. Was such warning reflected in the court record and proceedings, (i.e., noted in transcript or copy placed in court file)?

_____ Yes
_____ No
_____ Unknown

If there is a "no" or "unknown" response to any one of the above seven questions, then a valid court order did not exist, thus the juvenile in question can not be securely detained pursuant to the valid court order provision of Section 223(a)(12)(A) of the JJDP Act, as amended.

B. DETERMINING WHETHER A JUVENILE ACCUSED OF VIOLATING A VALID COURT ORDER MAY BE SECURELY DETAINED

8. Was there a judicial determination, based upon a hearing before a court of competent jurisdiction, that there was probable cause to believe the juvenile violated a valid court order?

_____ Yes
_____ No
_____ Unknown

9. If the juvenile was in secure detention at the time of the hearing, was the probable cause hearing held during the 24-hour grace period permitted for a non-criminal juvenile offender (i.e., status offender) under OJJDP monitoring policy?

_____ Yes
_____ No
_____ Unknown

10. Was the juvenile held for protective purposes or to assure the juvenile's appearance at the violation hearing, as provided or prescribed by State law?

_____ Yes
_____ No
_____ Unknown

11. Was the juvenile held, pending a violation hearing, within the maximum length of time permitted by State law?

_____ Yes
_____ No
_____ Unknown

12. Did the judge presiding over the probable cause hearing determine that all elements of a valid court order exist (i.e., items 1 through 7 of this checklist)?

_____ Yes
_____ No
_____ Unknown

13. Did the judge presiding over the probable cause hearing determine that the applicable due process rights were afforded the juvenile in connection with either (1) the initial hearing at which the court order was rendered or (2) the probable cause hearing?

_____ Yes
_____ No
_____ Unknown*

(*If the response to item 13 is "Unknown", were each of the following due process rights provided in connection with either (1) the initial hearing at which the court order was rendered or (2) the probable cause hearing?)

(A) The right to have the charges against the juvenile in writing served upon him a reasonable time before the hearing;

_____ Yes
_____ No
_____ Unknown

(B) The right to a hearing before a court;

_____ Yes
_____ No
_____ Unknown

(C) The right to an explanation or the nature and consequences of the proceeding;

_____ Yes
_____ No
_____ Unknown

(D) The right to legal counsel, and the right to have such counsel appointed by the court if indigent;

_____ Yes
_____ No
_____ Unknown

(E) The right to confront witnesses;

_____ Yes
_____ No
_____ Unknown

(F) The right to present witnesses;

_____ Yes
_____ No
_____ Unknown

(G) The right to have a transcript or record of the proceedings;

_____ Yes
_____ No
_____ Unknown

(H) The right of appeal to an appropriate court.

_____ Yes
_____ No
_____ Unknown

If the answer is "no" or "unknown" to any one of the questions in items 8 through 13 above, then the juvenile accused of violating a valid court order and held in a secure facility beyond the 24-hour grace period permitted for non-criminal juvenile offenders (i.e., status offenders) under the OJJDP monitoring policy is for the purposes of monitoring, reported as a violation incident to Section 223(a)(12)(A) and is not considered eligible to securely detain under the valid court order provision.

C. DETERMINING WHETHER A JUVENILE FOUND TO HAVE VIOLATED A VALID COURT ORDER MAY BE SECURELY HELD

14. Was there a judicial determination, based upon a hearing before a court of competent jurisdiction, that the juvenile violated a valid court order?

_____ Yes
_____ No
_____ Unknown

15. Did the judge presiding over the violation hearing determine that all elements of a valid court order exist (i.e., items 1 through 7 of this checklist)?

_____ Yes
_____ No
_____ Unknown

16. Did the judge presiding over the violation hearing determine that the applicable due process rights were afforded the juvenile in connection with the violation hearing?

_____ Yes
_____ No
_____ Unknown*

(*If the response to item 16 is "Unknown" were each of the following due process rights provided in connection with the violation hearing?)

(A) The right to have the charges against the juvenile in writing served upon him a reasonable time before the hearing;

_____ Yes
_____ No
_____ Unknown

(B) The right to a hearing before a court;

_____ Yes
_____ No
_____ Unknown

(C) The right to an explanation or the nature and consequences of the proceeding;

_____ Yes
_____ No
_____ Unknown

(D) The right to legal counsel, and the right to have such counsel appointed by the court if indigent;

_____ Yes
_____ No
_____ Unknown

(E) The right to confront witnesses;

_____ Yes
_____ No
_____ Unknown

(F) The right to present witnesses;

_____ Yes
_____ No
_____ Unknown

(G) The right to have a transcript or record of the proceedings;

_____ Yes
_____ No
_____ Unknown

(H) The right of appeal to an appropriate court.

_____ Yes
_____ No
_____ Unknown

17. Did the judge presiding over the violation hearing determine there was no less restrictive alternative appropriate to the needs of the juvenile and the community?

_____ Yes
_____ No
_____ Unknown

If the answer is "no" or "unknown" to any one of the questions in items 14 through 17 above, then the juvenile found to have violated a court order and held in a secure facility is, for the purposes of monitoring, reported as a violation incident to Section 223(a)(12)(A) and is not considered eligible to be securely held under the valid court order procedures.

D. DETERMINING WHETHER THE JUVENILE IS A NON-OFFENDER

18. Was the juvenile a non-offender such as an abused, dependent or neglected child?

_____ Yes
_____ No
_____ Unknown

If the answer to question 18 is "yes", then the juvenile in question can not be securely detained pursuant to the valid court order provision of Section 223(a)(12)(A) of the JJDP Act, as amended.

OMB # 1121-0089
EXPIRES: 9/90

THIS FORM IS A TECHNICAL ASSISTANCE TOOL AND ITS USE IS OPTIONAL

STATE MONITORING REPORT

A. GENERAL INFORMATION

1. NAME AND ADDRESS OF STATE MONITORING AGENCY

_____

_____

_____

2. CONTACT PERSON REGARDING STATE REPORT

Name:_____ Phone#:_____

3. DOES THE STATE'S LEGISLATIVE DEFINITION OF CRIMINAL-TYPE OFFENDER, STATUS OFFENDER, OR NONOFFENDER DIFFER WITH THE OJJDP DEFINITION CONTAINED IN THE CURRENT OJJDP FORMULA GRANT REGULATION?_____

IF YES, HOW? _____

_____

_____

_____

4. (To be answered only if response to item 3 above is yes).
DURING THE STATE MONITORING EFFORT WAS THE FEDERAL DEFINITION OR STATE DEFINITION FOR CRIMINAL-TYPE OFFENDER, STATUS OFFENDER AND NONOFFENDER USED? _____

Revised 9/88

SECTION 223(a)(12)(A)

B. REMOVAL OF STATUS OFFENDERS AND NONOFFENDERS FROM SECURE DETENTION AND CORRECTIONAL FACILITIES

The information required in this section concerns those public and private residential facilities which have been classified as a secure detention or correctional facility as defined in the current OJJDP regulation.

1. BASELINE REPORTING PERIOD _____

_____

CURRENT REPORTING PERIOD _____

_____

2. NUMBER OF PUBLIC AND PRIVATE SECURE DETENTION AND CORRECTIONAL FACILITIES.

Enter the number of residential facilities which have been classified as public or private secure detention and correctional facilities as defined in the OJJDP regulation. This includes but is not limited to juvenile detention facilities, juvenile correctional facilities, jails, lockups, or other secure facilities.

	TOTAL	PUBLIC	PRIVATE
Baseline Data	_____	_____	_____
Current Data	_____	_____	_____
Juvenile Detention Centers	_____	_____	_____
Juvenile Training Schools	_____	_____	_____
Adult Jails	_____	_____	_____
Adult Lockups	_____	_____	_____
Other	_____	_____	_____

3. NUMBER OF FACILITIES IN EACH CATEGORY REPORTING ADMISSION AND RELEASE DATA FOR JUVENILES TO THE STATE MONITORING AGENCY.

	TOTAL	PUBLIC	PRIVATE
Baseline Data	_____	_____	_____
Current Data	_____	_____	_____
Juvenile Detention Centers	_____	_____	_____
Juvenile Training Schools	_____	_____	_____
Adult Jails	_____	_____	_____
Adult Lockups	_____	_____	_____
Other	_____	_____	_____

4. NUMBER OF FACILITIES IN EACH CATEGORY RECEIVING AN ON-SITE INSPECTION DURING THE CURRENT REPORTING PERIOD FOR THE PURPOSE OF VERIFYING SECTION 223(a)(12)(A) COMPLIANCE DATA.

	TOTAL	PUBLIC	PRIVATE
Current Data	_____	_____	_____
Juvenile Detention Centers	_____	_____	_____
Juvenile Training Schools	_____	_____	_____
Adult Jails	_____	_____	_____
Adult Lockups	_____	_____	_____
Other	_____	_____	_____

5. TOTAL NUMBER OF ACCUSED STATUS OFFENDERS AND NONOFFENDERS HELD FOR LONGER THAN 24 HOURS IN PUBLIC AND PRIVATE SECURE DETENTION AND CORRECTIONAL FACILITIES DURING THE REPORT PERIOD, EXCLUDING THOSE HELD PURSUANT TO A JUDICIAL DETERMINATION THAT THE JUVENILE VIOLATED A VALID COURT ORDER.

Write in the number of accused status offenders and nonoffenders held in excess of 24 hours in the facilities during the report period. This number should not include (1) accused status offenders or nonoffenders held less than 24 hours following initial police contact, (2) accused status offenders or nonoffenders held less than 24 hours following initial court contact, or (3) status offenders accused of violating a valid court order for which a probable cause hearing was held during the 24 hour grace period.

The 24 hour period should not include weekends and holidays.

Where a juvenile is admitted on multiple offenses, the most serious offense should be used as the official offense for purposes of monitoring compliance.

	TOTAL	PUBLIC	PRIVATE
Baseline Data	_____	_____	_____
Current Data	_____	_____	_____
Juvenile Detention Centers	_____	_____	_____
Juvenile Training Schools	_____	_____	_____
Adult Jails	_____	_____	_____
Adult Lockups	_____	_____	_____
Other	_____	_____	_____

6. TOTAL NUMBER OF ADJUDICATED STATUS OFFENDERS AND NONOFFENDERS HELD IN PUBLIC AND PRIVATE SECURE DETENTION AND CORRECTIONAL FACILITIES FOR ANY LENGTH OF TIME DURING THE REPORT PERIOD, EXCLUDING THOSE HELD PURSUANT TO A JUDICIAL DETERMINATION THAT THE JUVENILE VIOLATED A VALID COURT ORDER.

Write in the number of adjudicated status offenders and nonoffenders held in the facilities for any length of time during the report period. This number should not include those status offenders found in a violation hearing to have violated a valid court order.

Where a juvenile is admitted on multiple offenses, the most serious offense should be used as the official offense for purposes of monitoring compliance.

	TOTAL	PUBLIC	PRIVATE
Baseline Data	_____	_____	_____
Current Data	_____	_____	_____
Juvenile Detention Centers	_____	_____	_____
Juvenile Training Schools	_____	_____	_____
Adult Jails	_____	_____	_____
Adult Lockups	_____	_____	_____
Other	_____	_____	_____

7. TOTAL NUMBER OF STATUS OFFENDERS HELD IN ANY SECURE DETENTION OR CORRECTIONAL FACILITY PURSUANT TO A JUDICIAL DETERMINATION THAT THE JUVENILE VIOLATED A VALID COURT ORDER.

Write in the total number of status offenders accused of violating a valid court order pursuant to a judicial determination, based on a hearing during the 24 hour grace period, that there is probable cause to believe the juvenile

violated the court order and the number of status offenders found in violation hearings to have violated a valid court order.

	TOTAL	PUBLIC	PRIVATE
Baseline Data	_____	_____	_____
Current Data	_____	_____	_____
Juvenile Detention Centers	_____	_____	_____
Juvenile Training Schools	_____	_____	_____
Adult Jails	_____	_____	_____
Adult Lockups	_____	_____	_____
Other	_____	_____	_____

Has the state monitoring agency verified that the criteria for using this exclusion have been satisfied pursuant to the current OJJDP regulation?_____

_____

If yes, how was this verified (state law and/or judicial rules match the OJJDP regulatory criteria, or each case was individually verified through a check of court records)? _____

_____

C. **DE MINIMIS REQUEST**

1. CRITERION A -- THE EXTENT THAT NONCOMPLIANCE IS INSIGNIFICANT OR OF SLIGHT CONSEQUENCE.

Number of accused status offenders and nonoffenders held in excess of 24 hours and the number of adjudicated status offenders and nonoffenders held for any length of time in secure detention or secure correctional facilities.

ACCUSED		ADJUDICATED		TOTAL
_____	+	_____	=	_____

Total juvenile population of the State under age 18 according to the most recent available U.S. Bureau of Census data or census projection.

_____

If the data was projected to cover a 12-month period, provide the specific data used in making the projection and the statistical method used to project the data.

	ACCUSED		ADJUDICATED		TOTAL
Data:	_____	+	_____	=	_____

Statistical Method of Projection: _____

_____

Calculation of status offender and nonoffender detention and correctional institutionalization rate per 100,000 population under age 18.

Status offenders and nonoffenders held (total) = _____ (a)

Population under age 18 = _____ (b)

_____ /	_____	=	_____
(a)	(b)		Rate

NOTE: If the rate is less than 5.8 per 100,000 population, the State does not have to respond to criterion B and C.

2. CRITERION B -- THE EXTENT TO WHICH THE INSTANCES OF NONCOMPLIANCE WERE IN APPARENT VIOLATION OF STATE LAW OR ESTABLISHED EXECUTIVE OR JUDICIAL POLICY.

   a. Provide a brief narrative discussion of the circumstances surrounding the noncompliant incidences. Describe whether the instances of noncompliance were in apparent violation of state law, established executive policy or established judicial policy. Attach a copy of the applicable law and/or policy.

_____

_____

_____

3. CRITERION C -- THE EXTENT TO WHICH AN ACCEPTABLE PLAN HAS BEEN DEVELOPED.

A plan is to be developed to eliminate noncompliant incidents within a reasonable time where the instances of noncompliance (1) indicate a pattern or practice or (2) appear to be sanctioned by or consistent with state law or established executive or judicial policy, or both.

a. Do the instances of noncompliance indicate a pattern or practice?

Yes _____ No _____

b. Do the instances of noncompliance appear to be sanctioned or allowable by state law, established executive policy, or established judicial policy?

Yes _____ No _____

c. Describe the State's plan to eliminate the noncompliant incidents within a reasonable time. The following must be addressed as elements of an acceptable plan:

(1) If the instances of noncompliance are sanctioned by or consistent with state law or executive or judicial policy, then the plan must detail a strategy to modify the law or policy to prohibit noncompliant placement so that it is consistent with the Federal deinstitutionalization of status offenders and nonoffenders requirement.

(2) If the instances of noncompliance were in apparent violation of state law, or executive or judicial policy, and amount to or constitute a pattern or practice rather than isolated instances of noncompliance, the plan must detail a strategy which will be employed to rapidly identify violations and ensure the prompt enforcement of applicable state law or executive or judicial policy.

(3) In addition, the plan must be targeted specifically to the agencies, courts, or facilities responsible for the placement of status offenders and nonoffenders in noncompliance with Section 223(a)(12)(A). It must include a specific strategy to eliminate

instances of noncompliance through statutory reform, changes in facility policy and procedure, or modification of court policy.

_____

_____

_____

_____

4. OUT OF STATE RUNAWAYS

Number of out of state runaways held beyond 24 hours in response to a want, warrant, or request from a jurisdiction in another state or pursuant to a court order, solely for the purpose of being returned to proper custody in the other state? _____

These juveniles may be excluded only if their presence created a noncompliance rate in excess of 29.4 per 100,000 juvenile population.

5. FEDERAL WARDS

Number of Federal wards held in the State's adult jails and lockups pursuant to a written contract or agreement with a Federal agency and for the specific purpose of affecting a jurisdictional transfer, appearance as a material witness, or for return to their lawful residence or country of citizenship? _____

These juveniles may be excluded only if their presence created a noncompliance rate in excess of 29.4 per 100,000 juvenile population.

6. RECENTLY ENACTED CHANGE IN STATE LAW

Describe recently enacted changes in state law which have gone into effect, and which can reasonably be expected to have a substantial, significant, and positive impact on the State's achieving full compliance within a reasonable time.

_____

_____

_____

_____

SECTION 223(a)(12)(B)

D. **PROGRESS MADE IN ACHIEVING REMOVAL OF STATUS OFFENDERS AND NONOFFENDERS FROM SECURE DETENTION AND CORRECTIONAL FACILITIES**

1. PROVIDE A BRIEF SUMMARY OF THE PROGRESS MADE IN ACHIEVING THE REQUIREMENTS OF SECTION 223(a)(12)(A).

_____

_____

_____

_____

_____

2. NUMBER OF ACCUSED AND ADJUDICATED STATUS OFFENDERS AND NONOFFENDERS WHO ARE PLACED IN FACILITIES WHICH (A) ARE NOT NEAR THEIR HOME COMMUNITY; (B) ARE NOT THE LEAST RESTRICTIVE APPROPRIATE ALTERNATIVE; AND, (C) DO NOT PROVIDE THE SERVICES DESCRIBED IN THE DEFINITION OF COMMUNITY-BASED.

_____

_____

_____

SECTION 223(a)(13)

E. **SEPARATION OF JUVENILES AND ADULTS**

The information required in this section concerns the separation of juveniles and incarcerated adults in residential facilities which can be used for the secure detention and confinement of both juveniles offenders and adult criminal offenders.

Adequate separation means adult inmates and juveniles cannot see each other and no conversation is possible. Separation may be established through architectural design or time phasing use of an area to prohibit simultaneous use by juveniles and adults.

1. BASELINE REPORTING PERIOD _____

_____

CURRENT REPORTING PERIOD _____

_____

2. WHAT DATE HAS BEEN DESIGNATED BY THE STATE FOR ACHIEVING COMPLIANCE WITH THE SEPARATION REQUIREMENTS OF SECTION 223(a)(13)?

_____

3. TOTAL NUMBER OF FACILITIES USED TO DETAIN OR CONFINE BOTH JUVENILE OFFENDERS AND ADULT CRIMINAL OFFENDERS DURING THE PAST TWELVE (12) MONTHS.

	TOTAL	PUBLIC	PRIVATE
Baseline Data	_____	_____	_____
Current Data	_____	_____	_____
Adult Jails	_____	_____	_____
Adult Lockups	_____	_____	_____

4. NUMBER OF FACILITIES IN EACH CATEGORY RECEIVING AN ON-SITE INSPECTION DURING THE CURRENT REPORTING PERIOD TO CHECK THE PHYSICAL PLANT TO ENSURE ADEQUATE SEPARATION.

	TOTAL	PUBLIC	PRIVATE
Baseline Data	_____	_____	_____
Current Data	_____	_____	_____
Adult Jails	_____	_____	_____
Adult Lockups	_____	_____	_____

5. TOTAL NUMBER OF FACILITIES USED FOR THE SECURE DETENTION AND CONFINEMENT OF BOTH JUVENILE AND ADULT OFFENDERS WHICH DID NOT PROVIDE ADEQUATE SEPARATION OF JUVENILES AND ADULTS.

	TOTAL	PUBLIC	PRIVATE
Baseline Data	_____	_____	_____
Current Data	_____	_____	_____

Adult Jails	_____	_____	_____
Adult Lockups	_____	_____	_____

6. TOTAL NUMBER OF JUVENILES NOT ADEQUATELY SEPARATED IN FACILITIES USED FOR THE SECURE DETENTION AND CONFINEMENT OF BOTH JUVENILE OFFENDERS AND ADULT CRIMINAL OFFENDERS DURING THE REPORT PERIOD.

	TOTAL	PUBLIC	PRIVATE
Baseline Data	_____	_____	_____
Current Data	_____	_____	_____
Adult Jails	_____	_____	_____
Adult Lockups	_____	_____	_____

7. PROVIDE A BRIEF SUMMARY OF THE PROGRESS MADE IN ACHIEVING THE REQUIREMENTS OF SECTION 223(a)(13).

(This summary should discuss the extent of the state's compliance in implementing Section 223(a)(13), and how reductions have been achieved, including the identification of state legislation which directly impacts on compliance. Discuss any proposed or recently passed legislation or policy which has either positive or negative impact on achieving or maintaining compliance. Attach additional sheets as necessary.)

_____

_____

_____

_____

DESCRIBE THE MECHANISM FOR ENFORCING THE STATE'S SEPARATION LAW.

_____

_____

_____

_____

SECTION 223(a)(14)

F. **REMOVAL OF JUVENILES FROM ADULT JAILS AND LOCKUPS.**

The information in this section concerns the removal of juveniles from adult jails and lockups as defined in the current OJJDP regulation.

1. BASELINE REPORTING PERIOD _____

   CURRENT REPORTING PERIOD _____

2. NUMBER OF ADULT JAILS

   Enter the total number of facilities meeting the definition of adult jail as contained in the current OJJDP regulation.

	TOTAL	PUBLIC	PRIVATE
Baseline Data	_____	_____	_____
Current Data	_____	_____	_____

3. NUMBER OF ADULT LOCKUPS

   Enter the total number of facilities meeting the definition of adult lockup as contained in the current OJJDP regulation.

	TOTAL	PUBLIC	PRIVATE
Baseline Data	_____	_____	_____
Current Data	_____	_____	_____

4. NUMBER OF FACILITIES IN EACH CATEGORY RECEIVING AN ON-SITE INSPECTION DURING THE CURRENT REPORTING PERIOD FOR THE PURPOSE OF VERIFYING SECTION 223(a)(14) COMPLIANCE DATA.

	TOTAL	PUBLIC	PRIVATE
Current Data	_____	_____	_____
Adult Jails	_____	_____	_____
Adult Lockups	_____	_____	_____

5. TOTAL NUMBER OF ADULT JAILS HOLDING JUVENILES DURING THE PAST TWELVE MONTHS.

	TOTAL	PUBLIC	PRIVATE
Baseline Data	_____	_____	_____
Current Data	_____	_____	_____

6. TOTAL NUMBER OF ADULT LOCKUPS HOLDING JUVENILES DURING THE PAST TWELVE MONTHS.

	TOTAL	PUBLIC	PRIVATE
Baseline Data	_____	_____	_____
Current Data	_____	_____	_____

7. TOTAL NUMBER OF ACCUSED JUVENILE CRIMINAL-TYPE OFFENDERS HELD IN ADULT JAILS IN EXCESS OF SIX (6) HOURS.

Enter the total number of accused juvenile criminal-type offenders held in all adult jails in excess of six hours during the report period. This number includes juveniles held in those counties meeting the removal exception criteria. This number should not include (1) status offenders and nonoffenders held (2) criminal-type offenders held less than six hours, and (3) juveniles held in adult lockups.

	TOTAL	PUBLIC	PRIVATE
Baseline Data	_____	_____	_____
Current Data	_____	_____	_____

8. TOTAL NUMBER OF ACCUSED JUVENILE CRIMINAL-TYPE OFFENDERS HELD IN ADULT LOCKUPS IN EXCESS OF SIX (6) HOURS.

Enter the total number of accused juvenile criminal-type offenders held in all adult lockups in excess of six hours during the report period. This number includes juveniles held in those counties meeting the removal exception criteria. This number should not include (1) status offenders and nonoffenders held (2) criminal-type offenders held less than six hours, and (3) juveniles held in adult jails.

	TOTAL	PUBLIC	PRIVATE
Baseline Data	_____	_____	_____
Current Data	_____	_____	_____

9. TOTAL NUMBER OF ADJUDICATED CRIMINAL-TYPE OFFENDERS HELD IN ADULT JAILS FOR ANY LENGTH OF TIME.

	TOTAL	PUBLIC	PRIVATE
Baseline Data	_____	_____	_____
Current Data	_____	_____	_____

10. TOTAL NUMBER OF ADJUDICATED CRIMINAL-TYPE OFFENDERS HELD IN ADULT LOCKUPS FOR ANY LENGTH OF TIME.

	TOTAL	PUBLIC	PRIVATE
Baseline Data	_____	_____	_____
Current Data	_____	_____	_____

11. TOTAL NUMBER OF ACCUSED AND ADJUDICATED STATUS OFFENDERS AND NONOFFENDERS HELD IN ADULT JAILS FOR ANY LENGTH OF TIME, INCLUDING THOSE STATUS OFFENDERS ACCUSED OF OR ADJUDICATED FOR VIOLATION OF A VALID COURT ORDER.

	TOTAL	PUBLIC	PRIVATE
Baseline Data	_____	_____	_____
Current Data	_____	_____	_____

12. TOTAL NUMBER OF ACCUSED AND ADJUDICATED STATUS OFFENDERS HELD IN ADULT LOCKUPS FOR ANY LENGTH OF TIME, INCLUDING THOSE STATUS OFFENDERS ACCUSED OF OR ADJUDICATED FOR VIOLATION OF A VALID COURT ORDER.

	TOTAL	PUBLIC	PRIVATE
Baseline Data	_____	_____	_____
Current Data	_____	_____	_____

13. TOTAL NUMBER OF ADULT JAILS AND LOCKUPS IN AREAS MEETING THE "REMOVAL EXCEPTION."

If the State has received approval from OJJDP pursuant to the removal exception contained in the current regulation, enter the number of adult jails and lockups located in those counties or jurisdictions which are outside a Metropolitan Statistical Area.

Baseline Data _____

Current Data _____

Provide the names of the adult jails and lockups and the county in which it is located. (Attach additional sheets as necessary).

_____ _____ _____

14. TOTAL NUMBER OF JUVENILES ACCUSED OF A CRIMINAL-TYPE OFFENSE WHO WERE HELD IN EXCESS OF SIX (6) HOURS BUT LESS THAN TWENTY-FOUR (24) HOURS IN ADULT JAILS AND LOCKUPS IN AREAS MEETING THE "REMOVAL EXCEPTIONS."

Enter the number of juveniles accused of a criminal-type offense who were held in excess of six (6) hours but less than twenty-four (24) hours in adult jails and lockups located in counties which are outside a Metropolitan Statistical Area.

The 24 hour period should not include weekends and holidays.

	TOTAL	PUBLIC	PRIVATE
Baseline Data	_____	_____	_____
Current Data	_____	_____	_____
Adult Jails	_____	_____	_____
Adult Lockups	_____	_____	_____

NOTE: The criteria for this exception includes the existence of a state law requiring detention hearings within 24 hours.

15. PROVIDE A BRIEF SUMMARY OF THE PROGRESS MADE IN ACHIEVING THE REQUIREMENTS OF SECTION 223(a)(14).

(This summary should discuss the extent of the State's compliance in implementing Section 223(a)(14), and how reductions have been achieved, including the identification of state legislation which directly impacts on compliance. Discuss any proposed or recently passed legislation or policy which has either positive or negative impact on achieving or maintaining compliance. Attach additional sheets as necessary.)

_____

_____

_____

G. **DE MINIMIS REQUEST: NUMERICAL**

1. **THE EXTENT THAT NONCOMPLIANCE IS INSIGNIFICANT OR OF SLIGHT CONSEQUENCE.**

Number of accused juvenile criminal-type offenders held in adult jails and lockups in excess of six (6) hours, accused juvenile criminal-type offender, held in adult jails and lockups in non-MSA's for more than 24 hours, adjudicated criminal-type offenders held in adult jails and lockups for any length of time, and status offenders held in adult jails and lockups for any length of time.

TOTAL = _____

Total juvenile population of the state under 18 according to the most recent available U.S. Bureau of Census data or census projection _____.

If the data was projected to cover a 12-month period, provide the specific data used in making the projection and the statistical method used to project the data.

Data: _____

Statistical Method of Projection: _____

_____

Calculation of jail removal violations rate per 100,000 population under 18.

Total instances of noncompliance = _____(a)
Population under 18 = _____(b)

_____ / _____ = _____
(a) (b) Rate

2. ACCEPTABLE PLAN

Describe whether an acceptable plan has been developed to eliminate the noncompliant incidences through the enactment or enforcement of state law, rule, or statewide executive or judicial policy, education, the provision of alternatives, or other effective means.

3. RECENTLY ENACTED CHANGE IN STATE LAW

Describe recently enacted changes in state law which have gone into effect, and which can reasonably be expected to have a substantial, significant, and positive impact on the State's achieving full (100%) compliance, or full compliance with de minimis exceptions by the end of the monitoring period immediately following the monitoring period under consideration.

H. **DE MINIMIS REQUEST: SUBSTANTIVE**

1. THE EXTENT THAT NONCOMPLIANCE IS INSIGNIFICANT OR OF SLIGHT CONSEQUENCE.

a. Were all instances of noncompliance in violation of or departures from state law, court rule, or other statewide executive or judicial policy?

_____

_____

_____

_____

b. Do the instances of noncompliance indicate a pattern or practice, or do they constitute isolated instances? _____

_____

_____

_____

c. Are existing mechanisms for enforcement of the state law, court rule, or other statewide executive or judicial policy such that the instances of noncompliance are unlikely to recur in the future? _____

_____

_____

_____

d. **Describe** the State's plan to eliminate the noncompliant incidents and to monitor the existing enforcement mechanism. _____

_____

_____

_____

APPENDIX F

CORRESPONDENCE AND SAMPLE LETTERS

U.S. Department of Justice

Office of Juvenile Justice and
Delinquency Prevention

Washington, D.C. 20531

NOV 2 3 1987

Yvonne M. Chase, Director
Department of Health and Social Services
Division of Family and Youth Services
Pouch H-05
Juneau, Alaska 99811

Dear Ms. Chase:

As we discussed during the course of the audit of Alaska's JJDP monitoring system, one of the more critical findings of the audit is that minors charged with alcohol violations have not been counted as status offenders in Alaska's Annual Monitoring Reports. It appeared from the audit that counting this class of offenders as status offenders will have a profound effect on the reported level of compliance with Sections 223(a)(12)(A) and 223(a)(14) of the JJDP Act.

For this reason, we are delaying the review of Alaska's 1986 Monitoring Report until we receive a revised report that counts minors charged with alcohol violations as status offenders. Please review the OJJDP definition of status offender (see 28 CFR 31.304) for guidance on this matter. Also, please note the legal opinion I forwarded to Russell Webb on October 19, 1987.

We cannot recommend award of Alaska's FY 1988 Formula Grant until we have received a satisfactory Monitoring Report and have determined that Alaska has achieved the levels of compliance necessary for eligibility to receive the FY 1988 award.

I have discussed this matter with Russell Webb and I will be glad to answer any questions you might have.

Sincerely,

Paul Steiner
Juvenile Justice Specialist
State Relations and Assistance
Division

MEMORANDUM State of Alaska

TO: Regional Administrators
Intake Officers
Institutional Superintendents

DATE: December 18, 1987

FILE NO.:

THRU:

TELEPHONE NO.:

SUBJECT: Detention Admission Criteria

FROM: Richard Illias
Youth Corrections Administrator

Several years ago instructions were issued to discontinue the practice of placing status offenders in our juvenile detention facilities. At that time the offense of minor consuming alcohol was interpreted to be a "criminal" offense under state law. Interpretation of the Juvenile Justice and Delinquency Prevention Act of 1974 by the U.S. Attorney General categorizes offenses such as minor consuming alcohol as status offenses. The logic is that those offenses can only be committed by a person of a certain age status. Even though the offense is criminal in many states between the ages of 18 and 21, it is none the less a status offense for both juveniles and a small group of adults.

In order to comply with Federal mandates and maintain eligibility of OJJDP block grants, it is necessary for intake units and institutions to revise detention screening and admission practices.

EFFECTIVE IMMEDIATELY YOUTH ARRESTED FOR THE OFFENSE OF MINOR CONSUMING MAY NO LONGER BE DETAINED IN DIVISION YOUTH FACILITIES UNLESS:

1. They are detained as probation violators (detention criteria number 8 and a petition is filed for revocation of probation.

2. Youth is also an absconder with a valid court order (warrant) for detention.

3. The youth has been charged with another offense sufficient to warrant detention.

4. The youth's identity cannot be determined.

5. The youth refused to sign a promise to appear.

Prohibition against detention of youth charged with minor consuming alcohol has no effect on the authority to detain a youth who is incapacitated by alcohol and requires protective custody pursuant to AS47.37.170. Protective custody admissions require a pre-admission medical examination and written certificate which attests to two conditions:

1. The youth's level of intoxication meets the definition of incapacitated by alcohol. That level is defined by statute as "a person who, as the result of consumption of alcohol, is rendered unconscious or has judgment or physical mobility so impaired that the person cannot readily recognize or escape conditions of apparent or imminent danger to personal health or safety."

2. The youth does not require either immediate or constant medical attention until the level of intoxication is reduced.

Persons admitted to detention facilities under the PC Statute must have the reason for detention marked "protective custody - AS47.37." Both detention booking records and intake records should show that designation as the reason for detention. Intake records such as the intake log should show under the offense column as both MCA and PC.

Please make sure that staff adhere to the PC requirement and that those youth be released from detention within 12 hours or sobering up whichever comes first.

RFI:ag

cc: Yvonne Chase
Donna Bownes

Enclosures

U.S. Department of Justice

Office of Juvenile Justice and
Delinquency Prevention

Washington, D.C. 20531

April 1, 1988

Russell Webb
JJDP Coordinator
Division of Family and Youth Services
Pouch H-05
Juneau, Alaska 99811

Dear Russ:

I have enclosed a copy of the Alaska Field Audit Report which describes the information I gained and the recommendations I made during the September 28 - October 3, 1987, on-site review of the state's compliance monitoring system.

Please review the Report and recommendations carefully. Pursuant to OJJDP Policy, you are required to respond to the Report, in writing, within 30 business days of receiving it.

Your response should clarify any issues relating to Alaska's compliance monitoring system that you feel are not adequately addressed by the Report. In addition, your response should address each of the recommendations contained in Section 6 of the Report.

If you concur with a recommendation, you may indicate such by describing what steps will be taken, by whom, and within what period of time, to implement it. If you disagree with a recommendation, please state your reasons, and I will respond to them. Although discussed during our exit conference on October 3, if any of the recommendations are not clear to you, please contact me for additional information.

I look forward to receiving your response to the Report.

Sincerely,

Paul Steiner
Juvenile Justice Specialist

Enclosure

STEVE COWPER
GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

#870

August 25, 1988

Mr. Verne L. Speirs
Administrator
Office of Juvenile Justice
and Delinquency Prevention
Washington, DC 20531

Dear Mr. Speirs:

I wish to communicate by way of this letter my commitment to achieving the complete removal of juveniles from adult jails and lockups in Alaska, and my intent to demonstrate that commitment in a manner which meets the eligibility requirements of OJJDP's 1988 Special Emphasis grant program relating to jail removal.

Specifically, I will, before September 25, 1988, issue a proclamation indicating my intent to support legislation prohibiting the confinement of juveniles in adult jails or lockups; committing the various departments and agencies of state government to taking appropriate actions within their authority to achieve removal of juveniles from jails; and during the support and participation of local governmental agencies and citizens for jail removal efforts. A copy of that proclamation will be forwarded to you on the date it is issued.

Alaska faces unique and difficult challenges in achieving the removal of juveniles from adult jails. I am confident, however, that with continued encouragement and support at the Federal level and with the commitment of Alaska's executive agencies and citizens, these challenges will be met. We look forward to the continued support of your staff in our efforts to improve Alaska's juvenile justice system.

Sincerely,

Steve Cowper
Governor

cc: Commissioner Munson
Department of Health and
Social Services

STATE OF ALASKA

STEVE COWPER, GOVENOR

P.O. Box H-05
Juneau, Alaska 99811-0630

(907) 465-3170

DEPT. OF HEALTH AND SOCIAL SERVICES

DIVISION OF FAMILY & YOUTH SERVICES
YOUTH CORRECTIONS SECTION

March 20, 1990

Pamela Swain, Director
State Relations and Assistance Division
Office of Juvenile Justice and Delinquency Prevention
633 Indiana Avenue, N.W.
Washington, DC 20531

Attention: Mike Holloway, State Representative

Dear Ms. Swain:

Enclosed is the long awaited 1988 Monitoring Report for Alaska. I think you will find the report thorough and well documented.

Alaska is requesting a finding of full compliance with de minimis exceptions for Section 223 (a) (12) (A) of the JJDP Act. This request is based on achievement in 1988 of a non-compliance rate of 5.4 per 100,000 juveniles. This rate is less than the noncompliance rate of 5.8 per 100,000 juveniles which has been established by OJJDP as the highest institutionalization rate a state may have and still be considered to be in full compliance with de minimis exceptions based solely on the numerical standard set forth in Criterion A (46 FR 2567).

Although the requirements for a finding of full compliance with de minimis exceptions are fully satisfied since the rate of non-compliance is below 5.4 per 100,000 juveniles, the monitoring report for 1988 also documents Alaska's achievement of the standards outlined in Criteria B and C. With respect to Criterion B, the monitoring report describes the circumstances surrounding the instances of non-compliance and explains the extent to which the instances of non-compliance were in violation of state law or established executive policy. Of the nine instances of non-compliant detention, only two appear to have not violated state law or established executive policy and one of these two instances involved an out of state runaway detained pending return to her home state. Finally, as explained in the monitoring report, Criterion C also appears to be satisfied, based on 1) the absence of any pattern or practice of non-

compliant detention, 2) apparent violation of state laws and/or executive policies in all but two of the nine reported instances of noncompliance and 3) development by DFYS of a detailed plan to eliminate non-compliant incidents.

Alaska is also requesting a finding of alternative substantial compliance with Section 223(a) (14) of the JJDP Act. This request is based on the following: First, 28 CFR Part 31.303 (f) (6)(iii)(A)(2)(i) is satisfied if "all status offenders and non-offenders securely detained in adult jails and lockups for any length of time were held in violation of an enforceable state law and did not constitute a pattern or practice within the state." Although both accused and adjudicated status offenders were securely detained in adult jails and lockups for short periods of time (note, however, that only four of these instances of detention of status offenders in adult facilities violated the deinstitutionalization requirement), there was only one instance of such detention which did not violate state laws requiring separation of juvenile and adult offenders. This instance of detention occurred at the only adult jail in Alaska which provided adequate separation in 1988. All other instances of detention of status offenders in adult facilities were in violation of Alaska's separation laws. These separation laws, as explained in the monitoring report, are enforceable through a variety of mechanisms which have been effective in reducing separation violations by 32 percent in the one year period following implementation of the state's revised Jail Removal Plan in December, 1987. These same mechanisms have been effective in reducing jail removal violations by 32 percent in the one year following implementation of the state's revised Jail Removal Plan in December, 1987.

Second, Alaska has made meaningful progress in removing other juveniles from adult jails and lockups, as documented by a 79 percent reduction in the number of criminal-type offenders securely detained in violation of section 223(a)(14) of the JJDP Act, from 766 in the baseline year (1980), to 161 in 1988. A reduction of this magnitude represents "a significant reduction in the number of juvenile criminal-type offenders securely detained in violation of section 223(a)(14) of the JJDP Act: and thus satisfies the "meaningful progress" standard for alternative substantial compliance outlined in 28 CFR Part 31.303 (f) (6) (iii) (A) (2) (ii).

The state has also diligently carried out its revised 1987 Jail Removal Plan by undertaking actions necessary to achieve jail and lockup removal goals and objectives and by appropriate involvement of the State Advisory Group in developing and implementing the state's plan. These efforts are documented in the 1988 Performance Report and Alaska's responses to the 1987 OJJDP Field Audit. The requirement that a state must demonstrate that it has "diligently carried out the state's jail and lockup removal plan," as required under 28 CFR Part 31.303 (f) (6) (iii) (A) (2) (iii), is thus also satisfied.

Fourth, as required under CFR Part 31.303 (f) (6) (iii) (A) (2) (iv), Alaska has historically expended and continues to expend a significant share of its Formula Grant funds to comply with Section 223(a)(14). In 1987 and 1988, after subtracting the administration and SAG allowance, Alaska spent 100 percent of its Formula Grant funds on jail removal efforts.

Finally, as required under 28 CFR Part 31.303 (f) (6) (iii) (A) (3), Alaska has made an unequivocal commitment to achieving full compliance within a reasonable time as evidenced in an Executive Proclamation issued on April 14, 1989 by Governor Steve Cowper. In this proclamation, the Governor explicitly proclaimed his support for efforts to develop regulations which reduce detention of children in adult facilities.

Alaska has thus achieved each of the requirements for alternative substantial compliance with jail removal requirement, as outlined in 28 CFR Part 31.303 (f) (6) (iii) (A) (2) and (3). Moreover, if OJJDP interpretations of the definitions of "criminal-type offender: and "status offender" were the same in 1988 as they were in 1980 (the baseline year), and if our monitoring universe had not expanded greatly between 1980 and 1988, Alaska would have exceeded the 75 percent reduction in non-compliant detention required for substantial compliance under 28 CFR Part 31.303 (f) (6) (iii) (A) (1).

We would appreciate your prompt review of our report and a statement of findings. I believe several other important

decisions such as award of the 1989 Formula Grant are being held pending your determination on our monitoring data.

Sincerely,

Russ Webb, Director
Division of Family and Youth Services
Department of Health and Social Services
State of Alaska

cc: Donna Schultz, Juvenile Justice Specialist
Richard Illias, Youth Corrections Administrator

U.S. Department of Justice

Office of Justice Programs

Office of Juvenile Justice and Delinquency Prevention

Washington, D.C. 20531

SEP 0 6 1990

Ms. Donna M. Schultz
Juvenile Justice Specialist
Department of Health and
Social Services
Division of Family and
Youth Services
P.O. Box H-05
Juneau, Alaska 99811-0630

Dear Donna:

This is in response to your request that the Office of Juvenile Justice and Delinquency Prevention (OJJDP) explain its finding that Alaska's 1988 Monitoring Report failed to demonstrate full, or at least substantial compliance with the jail and lockup removal provision, Section 223 (a)(14) of the JJDP Act. Specifically, you asked for the basis of OJJDP's finding that Alaska failed to demonstrate substantial compliance under the alternative standard developed by Congress in 1988.

The alternative substantial compliance provision is set forth at Section 223 (c)(2)(A)(i)(II) of the JJDP Act. The standards for demonstrating compliance with this provision are set forth at Section 223 (c) of the Act. These standards are further delineated at Section 31.303 (f)(6)(iii)(A)(2)(i)-(iv) of the OJJDP Formula Grants Regulation (28 CFR 31), which was published in the August 8, 1989, Federal Register.

The OJJDP review of Alaska's 1988 Monitoring Report indicated that the State failed to demonstrate its compliance with the standard set forth at Section 223 (c)(4)(A) of the JJDP Act and Section 31.303 (f)(6)(iii)(A)(2)(i) of the OJJDP Formula Grants Regulation. This Standard reads as follows:

> "...(i) Removed all status and non-offender juveniles from adult jails and lockups. Compliance with this standard requires that the last submitted monitoring report demonstrate that no status offender (including

> those accused of or adjudicated for violating a valid court order) or nonoffender juveniles were securely detained in adult jails or lockups for any length of time; or that all status offenders and nonoffenders securely detained in adult jails and lockups for any length of time were held in violation of an enforceable state law and did not constitute a pattern or practice within the state..."

This standard contains three (3) critical components. First, that all status and nonoffenders securely detained in adult jails and lockups for any length of time were held in violation of state law.

Alaska's 1988 Monitoring Report transmittal letter, dated March 20, 1990, indicates on page 2 that with one exception, the status and nonoffenders securely detained in adult jails and lockups violated state separation statutes. The OJJDP cannot accept Alaska's claim that separation statutes prohibit the secure detention of status and nonoffenders in adult jails and lockups. Clearly, if the facilities involved were renovated and/or they modified their separation practices, status and nonoffenders could be securely detained there without violating state law. Not only is this inconsistent with the jail and lockup removal provision of the Act, but concurrence by OJJDP with this argument could conceivably place this Office and Alaska in an untenable position in the future should these facilities begin providing adequate separation.

Even if OJJDP accepted the argument that separation statutes prohibit the secure detention of status and nonoffenders in adult jails and lockups, the transmittal letter cited above indicates that one (1) status or nonoffender was securely detained in an adult facility that provided adequate separation. As a result, this detention was not a violation of state law, and therefore, the requirement that "all" such detentions violate state law was not met. This incident also serves to illustrate why the OJJDP cannot accept Alaska's premise.

The second critical element is that the state law be enforceable. Your 1988 Monitoring Report indicates that increased public education, stepped-up monitoring, and the amendment of 17 DPS contracts has resulted in a 32% reduction in violations. While these measures are to be commended, and it is clear that they are necessary, their sufficiency remains in question at this time. In order for the OJJDP to accept a state's enforcement mechanisms as sufficient or adequate, it must be demonstrated that the mechanisms have been successful in eliminating all, or substantially all of the violations. A 32% reduction is not tantamount to elimination of substantially all of the violations.

The third and final critical element is that the violations did not constitute a pattern or practice. Admittedly, these terms are subjective. However, using standard denotations, I have to question Alaska's assertion that the fact that one-half of the violations involved one type of status offender (minor in possession of alcohol) does not constitute a pattern. Similarly, I believe the fact that over 40% of the violations occurred in three (3) facilities constitutes a practice.

Based on these findings, I could not conclude that Alaska satisfied the status and nonoffender requirement for alternative substantial compliance. Alaska does, however, satisfy the remaining alternative substantial compliance standards. In addition, I am confident that Alaska will continue to make progress toward full compliance with the jail and lockup removal provision of the JJDP Act.

I hope this information is useful to you. If you have any questions, please call me at (202) 307-5924.

Sincerely,

Jeff Allison
Compliance Monitoring Coordinator
State Relations and Assistance Division

MEMORANDUM

State of Alaska

DFYS rec'd 7/2/90 8 AM

TO: The Honorable Myra Munson
Commissioner
Department of Health and
Social Services

DATE: June 25, 1990

TELEPHONE: 561-4426

SUBJECT: Housing of Juveniles at Ketchikan Correctional Center

FROM: Susan Humphrey-Barnett SH-B.
Commissioner
Department of Corrections

Effective August 15, 1990, the Department of Corrections will cease the detention of juveniles at the Ketchikan Correctional Center, thus terminating the 1986 Memorandum of Agreement between our respective agencies.

The situation described in my December 1987 letter to you on this subject has become more critical. Ketchikan Correctional Center experienced unprecedented overcrowding this past year and our projections indicate that this trend will continue. Under the circumstances, Corrections cannot provide juveniles physical separation from adults, nor can we provide adequate supervision to ensure the safety of the juveniles.

I know that the Department of Health and Social Services has pursued juvenile detention alternatives in Ketchikan. If I can assist in your efforts in any way, please do not hesitate to contact me.

SHB:dlh

cc: Thomas E. Schulz, Superior Court Judge
Caren Robinson, Special Staff Assistant
Margaret M. Pugh, Director
Alan Bailey, Superintendent

MEMORANDUM

STATE OF ALASKA

DIVISION OF FAMILY AND YOUTH SERVICES
YOUTH CORRECTIONS OFFICE

TO: All District Supervisors

DATE: July 2, 1990

THRU: Richard F. Illias
Youth Corrections Administrator

FILE NO:

PHONE: 265-5090

FROM: Randall Hines
Associate Coordinator

SUBJECT: Data Collection Project

It is data collection time again! And in efforts to make this project as delightful and stimulating as possible, a handy form has been developed to help us, or more specifically you, provide the necessary information to make this project a worthwhile endeavor. We are requesting that the 1989 Intake Log be scanned for all those cases who meet the criteria found on the form, specifically, those cases where an adjudication on an alcohol offence alone or an alcohol offense and another related offense have occurred.

As you know, OJJDP considers alcohol offenses, such as minor consuming alcohol, to be "status offenses". The Juvenile Justice and Delinquency Prevention Act of 1974 mandates that we remove all status offenders from both adult jails/lockups and our own juvenile detention facilities.

We are collecting this data for our compliance monitoring report. Please complete this form and fax it to my office by July 24, 1990.

If you have any questions regarding these case, please call me prior to filling out the form as it will save us all time in the long run. Thank you for your help.

RI:br

cc: Regional Administrators

cc: Dave Parry

1989 INTAKES FOR ALCOHOL OFFENCES

REGION:_____ **DISTRICT:**_____ **PERSON REPORTING:**_____

Name (Last, First, MI)	DOB	Referral Date	Already on Conditions of Conduct/Probat. For Prior Non Alcohol Offence Yes or NO	Court Finding or Adjudicat. on the Alcohol Offence ALONE Yes or No	Date of Finding or Adjud.	Subsequ. Crt. Finding or Adjud. for Non Alcohol Criminal Type Delinquent Offence Yes or No	Date of Subseq. Finding or Adjud

UNIVERSITY OF ALASKA ANCHORAGE

3211 Providence Drive
Anchorage, Alaska 99508
(907) 786-1810

JUSTICE CENTER

October 28, 1988

Captain Glenn Godfrey
VPSO Enforcement Unit
Alaska State Troopers
5700 E. Tudor Road
Anchorage, AK 99507

Dear Captain Godfrey:

As I mentioned in our telephone conversation yesterday, the Division of Family and Youth Services has contracted with me to design and implement a system for monitoring juveniles who are detained in jails, lockups, detention centers and correctional facilities in Alaska, as required under the federal Juvenile Justice and Delinquency Prevention Act.

One portion of the requisite monitoring will entail collecting juvenile detention data from about half of the village lockups in the state and also conducting on-site inspections at about one-third of the village lockups. You mentioned in our telephone conversation that the appropriate course of action to obtain access to the records and physical plants of lockups which are supervised by Village Public Safety Officers would to be to write to you requesting you to authorize VPSO's to release booking records to us and to permit inspection of the facilities. I would like to take this opportunity to request your authorization for VPSO's to mail photocopies of their booking logs to me at the Justice Center (or, if you prefer, to the Anchorage offices of DFYS) and, for those VPSO's who maintain booking records but are unable to photocopy them, to permit us to conduct a site visit for purposes of inspection and data collection.

I believe I mentioned to you that I will try to arrange site visits so that only those lockups which maintain booking records but cannot submit copies by mail will be visited by me or one of my research assistants. We will, however, need to inspect at least 26 lockups this year and it is possible that this will require visits to a few facilities which do not fall into this category.

Finally, I would like to emphasize that I will need to complete all site visits before December 31st, as federal funds for the project are unavailable after that date. This places me under a very tight schedule, and I would like to begin contacting

facilities no later than November 1st, if possible. Anything you can do to accelerate the authorization would be greatly appreciated.

Thank you again for your assistance. I will look forward to hearing from you.

Sincerely,

David L. Parry

DLP:pb

STATE OF ALASKA
DEPT. OF HEALTH AND SOCIAL SERVICES
DIVISION OF FAMILY & YOUTH SERVICES
YOUTH SERVICES SECTION

STEVE COWPER, GOVERNOR

550 West 8th Ave.
Suite #304
Anchorage, Alaska 99501

November 7, 1988

Captain Glenn Godfrey
Rural/Village Public Safety
Officer Enforcement Unit
Alaska State Troopers
5700 E. Tudor Rd.
Anchorage, Alaska 99507

Dear Captain Godfrey:

This letter will confirm that David Parry, of the Justice Center, University of Alaska Anchorage, is under contract with the Division of Family and Youth Services to monitor detention of juveniles in all jails, lockups, detention centers and correctional centers in Alaska . Mr. Parry should be allowed to inspect any facility and to examine and reproduce facility records which contain information about juveniles and adults who have been admitted to the facility. His assistants, Marybeth Holleman and Russ Christensen, are also authorized to inspect facilities and to collect booking information. Facilities should mail photocopies of booking logs and other requested information directly to Mr. Parry at the Justice Center if at all possible.

The work Mr. Parry is doing for the Division is authorized by state law (AS 47.10.150 and AS 47.10.160) and it is required by the federal regulations governing detention of juveniles which are contained in the Juvenile Justice and Delinquency Prevention Act. 42 U.S.C. 5601, Pub. L. No. 93-415, 88 Stat. 1109 (1974). We consider monitoring of juvenile detention to be very important because it will make it possible for us to begin working with facilities to help them find alternatives to detention of juveniles and avoid situations where they may be subjecting themselves to possible liability by detaining juveniles.

Sincerely,

Richard Illias
Youth Corrections Administrator

RI/br

UNIVERSITY OF ALASKA ANCHORAGE

3211 Providence Drive
Anchorage, Alaska 99508
(907) 786-1810

JUSTICE CENTER

November 17, 1988

Demetri A. Tcheripanoff
Village Public Safety Officer
General Delivery
Akutan, Alaska 99553

Dear Mr. Tcheripanoff:

The Justice Center at the University of Alaska Anchorage is helping the Division of Family and Youth Services (DFYS) to get information about juveniles who are put in jail in Alaska. My research assistant, Marybeth Holleman, called you recently about what we are doing and what information we need from you.

We need to look at the records you have about people who have been put in your jail. This is authorized by both state law (AS 47.10.150 and AS 47.10.160) and the federal Juvenile Justice and Delinquency Prevention Act 42 U.S.C. 5601, Pub. L. No. 93-415, 88 Stat. 1109 (1974). I am enclosing a copy of a letter which authorizes us to see these records. The letter was written by Richard Illias, the Youth Corrections Administrator at DFYS, and sent to Captain Godfrey of the Alaska State Troopers.

If it is possible, we would like to have you make copies of your admission log (booking log) for 1987 and 1988 and send it to us in the enclosed envelope. If you do not use a booking log, you may send copies of any records you have for each person who was placed in the jail in 1987 or 1988. We need to know the date and time each person was put in and released, their name or some identification, their age or birthdate, and the reason they were put in jail (charge).

When you send us the copies, please also sign the form (enclosed) which certifies that you are sending a complete copy of your log or other records for 1987 and 1988. We will reimburse you for the cost of the copies and postage as soon as we receive the copies from you.

If you are able to copy your records and send them to us, we probably will not plan to visit the jail this year, but we will be required to inspect it in 1989 or 1990.

If you are not able to send us copies of these records, we will need to make arrangements to come to your jail to look at them in person. We will also plan to inspect the jail so that we

won't have to inspect it in 1989 or 1990. Please call us collect so we can plan a visit.

If you do not keep records that have the information we need about people who are put in your jail, please call us collect as soon as possible. We will send you some forms you might want to use to keep records and we will also send some instructions to show you how you can use the forms. We may want to come visit your jail, too, or we will probably decide to wait until next year.

If you have any questions, please feel free to call me collect at 786-1810. You may also wish to contact your oversight trooper if you have questions about releasing records.

Sincerely,

David L. Parry

DLP:pb
Enclosures

STATE OF ALASKA
DEPT. OF HEALTH AND SOCIAL SERVICES
DIVISION OF FAMILY & YOUTH SERVICES
YOUTH SERVICES SECTION

STEVE COWPER, GOVERNOR

550 West 8th Avenue
Suite 304
Anchorage, AK 99501

March 3, 1989

Susan E. Knighton, Director
State of Alaska
Department of Corrections
Division of Administrative Services
P.O. Box T
Juneau, Alaska 99811

Dear Ms. Knighton:

This letter will confirm that David Parry, of the Justice Center, University of Alaska Anchorage, is under contract with the Division of Family and Youth Services to monitor detention of juveniles in all jails, lockups, detention centers and correctional centers in Alaska. Mr. Parry should be allowed to inspect any facility and to examine and reproduce facility records which contain information about juveniles and adults who have been admitted to the facility. His assistants, Russ Christensen, Bob Lindquist and Lydia Heyward are also authorized to inspect facilities and to collect booking information.

Mr. Parry has informed me that DOC records are computerized and that you will be working with him to produce printouts of the information needed for this project. The specific information he will need printed out is as follows: Date in, time in, name, birthdate, charge, date out, time out. This information is needed for all persons admitted in 1987 and 1988 to the Ketchikan and Yukon-Kuskokwim Correctional Facilities and the Mat-SU Pre-Trial Facility. Printouts containing this information should be mailed directly to Mr. Parry at the Justice Center if at all possible.

The work Mr. Parry is doing for the Division is authorized by state law (AS 47.10.150 and AS 47.10.160) and it is required by the federal regulations governing detention of juveniles which are contained in the Juvenile Justice and Delinquency Prevention Act, 42.U.S.C. 5601, Pub. L. No. 93-415, 88 Stat. 1109 (1974). We consider monitoring of juvenile detention to be very important because it will make it possible for us to begin working with facilities to help them find alternatives to detention of juveniles and to avoid situations where they may be subjecting themselves to possible liability by detaining juveniles.

Sincerely,

Richard Illias
Youth Corrections Administrator

STATE OF ALASKA

STEVE COWPER, GOVERNOR

DEPT. OF HEALTH AND SOCIAL SERVICES

DIVISION OF FAMILY & YOUTH SERVICES
YOUTH SERVICES SECTION

550 West 8th Ave.,
Suite #304
Anchorage, AK 99501

March 17, 1989

Trooper Richard Quinn
Alaska State Troopers - Fort Yukon Post
Box 55
Fort Yukon, Alaska 99740

Dear Trooper Quinn:

This letter will introduce David Parry, who is a researcher at the Justice Center, University of Alaska, Anchorage. He is helping the Division of Family and Youth Services (DFYS) collect information about juveniles who are put in jail in Alaska.

It is important for us to know about juveniles who are put in jail because this will make it possible for us to begin working with you and others who run jails to help you find alternatives to detention of juveniles and avoid situations where you may be subjecting youselves to possible liability by detaining juveniles.

Dave will need to look at the records you have about people who have been put in your jail in 1987 and 1988. He will also need to inspect the jail. This is authorized by both state law and the federal Juvenile Justice and Delinquency Prevention Act of 1974. We have been working closely with Captain Glenn Godfrey, the head of the Rural/Village Public Safety Officer Enforcement Unit with the Alaska State Troopers. Captain Godfrey has sent a letter to Captain Shover at E Detention unit headquarters in Fairbanks which says that Dave is authorized to see your records and inspect your jail.

If you have any questions, please feel free to call Dave at 786-1810.

Sincerely,

Richard Illias
Youth Services Administrator

RI/br

STATE OF ALASKA

STEVE COWPER, GOVERNOR

DEPT. OF HEALTH AND SOCIAL SERVICES

DIVISION OF FAMILY & YOUTH SERVICES
YOUTH SERVICES SECTION

27 November 1989

Captain C. Roger McCoy
Contract Jail Administrator
Department of Public Safety
P.O.Box N
Juneau, Alaska 99811

Dear Captain McCoy:

This letter will confirm that the Justice Center of the University of Alaska Anchorage is again under contract with the Division of Family and Youth Services to monitor detention of juveniles in all jails, lockups, detention centers and correctional centers in Alaska. The principal investigator for the 1989 project is Dr. Nancy Schafer and Emily Read is the project manager. Dr. Schafer, Ms. Read, and their assistants should be allowed to inspect any facility and to examine and reproduce facility records containing booking information about juveniles and adults admitted to the facility.

The Justice Center researchers will need to collect booking data from all contract jails and from all village lockups that systematically record such data, and will be conducting facility and record keeping inspections at approximately one-third of the contract jails and village lockups. Contract jail superintendents should also be alerted that they may be contacted regarding on-site inspections and that such inspections are fully authorized under state law.

The Justice Center will contact you for photocopies of contract jail booking logs and other specified information should be mailed directly to Ms. Read at the Justice Center, 3211 Providence Drive, Anchorage, Alaska 99508. Data collection and most inspections will begin next January.

This project is authorized under Alaska Statutes 47.10.150 and 47.10.160, and is required by the federal regulations governing detention of juveniles contained in the Juvenile Justice and Delinquency Prevention Act, 42 U.S.C. 5601, Public Law No. 93-415, 88 Stat. 1109 (1974). Monitoring juvenile detention is very important. It makes it possible to discover alternatives to the detention of juveniles and assists the facilities in avoiding potential liability.

Thank you for your cooperation in this endeavor.

Sincerely,

Richard Illias
Youth Corrections Administrator

UNIVERSITY OF ALASKA ANCHORAGE

3211 Providence Drive
Anchorage, Alaska 99508
(907) 786-1810

JUSTICE CENTER

February 1, 1990

Captain C. Roger McCoy
Contract Jail Administrator
Alaska Department of Public Safety
P.O. Box N
Juneau, Alaska 99811

Dear Captain McCoy:

As I informed you in our earlier telephone conversation, the Justice Center at the University of Alaska Anchorage has again contracted with the Division of Family and Youth Services to monitor Alaska's compliance with the mandates of the 1974 Juvenile Justice and Delinquency Prevention Act. This Act requires the deinstitutionalization of juvenile status offenders and nonoffenders and also requires that facilities provide "sight and sound" separation of detained juveniles and adults.

For the coming year's monitoring project, Dr. Nancy Schafer will act as Principal Investigator and I will be the Project Manager. We are seeking to collect data on all juvenile admissions to Alaska's contract jails, and to conduct site visits at six facilities. I will notify you and the jail administrators of any impending facility visits by our staff at least two weeks in advance, and I will also specify the name of the visiting researcher. Travel will take place in late February or March.

The main purpose of site visitations is to verify the accuracy of data as it is recorded for juveniles. In order to do this, we will be cross-checking information that is provided to us by your office with other documents, such as case files, that are located in the jails. Your assistance and support are imperative to this project's successful completion. I would like to request that you authorize jail administrators to permit our staff to conduct site visits of their facilities.

Please call if you have any questions. I can be contacted in Anchorage by calling collect to 786-1821 or 786-1810. Thank you for your assistance.

Sincerely,

Emily E. Read
Project Manager

UNIVERSITY OF ALASKA ANCHORAGE

3211 Providence Drive Anchorage, Alaska 99508
(907) 786-1810 (907) 786-7777 fax

JUSTICE CE. TER

February 1, 1990

Ms. Gloria Simeon
VPSO Coordinator
Association of Village Council Presidents
P.O. Box 219
Bethel, Alaska 99559

Dear Ms. Simeon:

The U.A.A. Justice Center has again contracted with the Alaska Division of Family and Youth Services to monitor the detention of juveniles in jails, lockups, detention centers and correctional facilities in Alaska. I would like to introduce myself as the manager of this project and to provide some detail about the basis for this research and its scope.

As you may know, the 1974 Juvenile Justice and Delinquency Prevention Act requires that each state monitor its detention and correctional facilities for the presence of status offenders and juvenile non-offenders. Alaska's monitoring plan calls for the collection of statewide data on juvenile detentions, and for conducting inspections at one-third of all correctional or detention facilities each year. In the coming months, up to 35 village lockups throughout Alaska will be visited by our research team members, and all lockups with adequate data will be asked to send certifiable copies of their logs to the Justice Center.

This research is authorized by both state law (AS 47.10.150 and AS 47.10.160) and the federal J.J.D.P. Act 42 U.S.C. 5601, Pub. L. No. 93-415, 88 Stat. 1109 (1974). The Justice Center research staff is working closely with Mr. Richard Illias, Youth Corrections Administrator with the State Division of Family and Youth Services, and with Captain Glenn Godfrey, with the VPSO Enforcement Unit of the Alaska State Troopers. Additionally, all State Troopers with VPSO Oversight responsibilities have been notified of the project.

Information from the rural lockups is a most important element in assessing Alaska's progress toward deinstitutionalizing its youth. If you have any questions about the monitoring project, please do not hesitate to contact me at the Justice Center, 786-1821.

Sincerely,

Emily E. Read
Project Manager

STEVE COWPER, GOVERNOR

DEPARTMENT OF PUBLIC SAFETY

DIVISION OF STATE TROOPERS

ARTHUR ENGLISH
COMMISSIONER

5700 EAST TUDOR ROAD
ANCHORAGE, ALASKA 99507
PHONE: (907) 269-5647

February 8, 1990

Emily E. Read
Project Manager
University of Alaska, Anchorage
3211 Providence Drive
Anchorage, Alaska 99508

Dear Ms. Read:

Consider this letter your authorization for Village Public Safety Officers (VPSO's) to mail photocopies of their booking logs to the Justice Center and to permit the Justice Center to conduct site visits for the purposes of inspection, data verifications and/or data collection.

As we discussed during our telephone conversation on February 5, 1990, I would recommend that members of your office contact the Oversight Troopers prior to contacting the VPSO's, then the Oversight Troopers will be aware of which villages are selected and can advise the VPSO's that you will be contacting them.

If any problems or complications do arise and you need further assistance, please do not hesitate to contact me.

Sincerely,

G. G. Godfrey

Captain Glenn G. Godfrey
Chief of Rural Enforcement Services
Alaska State Troopers

GGG/lr

UNIVERSITY OF ALASKA ANCHORAGE

3211 Providence Drive
Anchorage, Alaska 99508
(907) 786-1810

JUSTICE CENTER

February 19, 1990

Police Chief Bob Oszman
Petersburg Police Department
P.O. Box 329
Petersburg, Alaska 99833

Dear Chief Oszman:

The University of Alaska Anchorage Justice Center has again contracted with the Alaska Division of Family and Youth Services (DFYS) to monitor the detention of juveniles in jails, lockups, detention centers and correctional facilities in Alaska. I would like to introduce myself as the manager of this research project and to provide some detail about the basis for the project, its scope, and the current cycle of data collection efforts.

As you know, the 1974 Juvenile Justice and Delinquency Prevention Act requires that each state monitor its detention and correctional facilities for the presence of status offenders and juvenile non-offenders. Alaska's monitoring plan calls for the collection of statewide data on detained juveniles, and for making site visits to one-third of all facilities each year. The federal law requires us to collect booking data from all adult jails and to visit each site even if no juveniles have been held in the past year.

There are two purposes in visiting adult jails. First, to verify the booking data reported by each jail to the Department of Public Safety. In this effort, we are specifically interested in verifying the accuracy of log entries on juvenile detainees by cross-checking log entries against other case files. Secondly, adult jails are visited in order to map facility layouts, and to determine if - and to what extent - the building(s) provides physical, visual and aural separation of juvenile and adult inmates.

In the current cycle, the Justice Center is seeking to collect booking data from the calendar year 1989. We are also planning to visit many Southeastern Alaska communities in the next few weeks. Due to the reporting relationship between Alaska Contract Jails and the State Department of Public Safety, it is unnecessary for each jail to independently provide copies of its booking logs to us. Rather, the Justice Center collects the data directly from the Department of Public Safety in Juneau.

The collection of otherwise confidential records and the inspection are authorized by both state law (AS 47.10.150 and AS

47.10.160) and the federal Juvenile Justice and Delinquency Prevention Act (42 U.S.C. 5601, Pub. L. No. 93-415, 88 Stat. 1109 (1974)). The Justice Center has been working closely with Captain C. Roger McCoy, Contract Jail Administrator with the Department of Public Safety. If you have questions about authorization for this project, please to not hesitate to contact either myself at 786-1821 or Captain McCoy at 465-4322.

After allowing time for receipt of this letter, I will be contacting you to make arrangements for a visit to your jail by either myself or by Justice Center research assistant Jann Dobbs. I have tentatively reserved the week of March 4th for visits to all Southeast sites.

Thank you in advance for your consideration of the requirements of this project. I look forward to working with you in the near future.

Sincerely,

Emily E. Read
Project Manager

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

DIVISION OF FAMILY & YOUTH SERVICES
YOUTH CORRECTIONS SECTION

STEVE COWPER, GOVENOR

550 W. 8th Avenue, Suite 304
Anchorage, AK 99501
Phone: (907)265-5095

28 February 1990

The Honorable Liv Gray
Mayor, City of Hoonah
P.O. Box 360
Hoonah, Alaska 99829

Dear Mayor Gray:

This letter will introduce Jann Dobbs, a researcher at the Justice Center, University of Alaska Anchorage. The Justice Center has again contracted with the Alaska Division of Family and Youth Services (DFYS) to collect information about juveniles who are put in jail in Alaska.

The 1974 Juvenile Justice and Delinquency Prevention Act requires that each state monitor its detention and correctional facilities for the presence of status offenders and juvenile non-offenders. Alaska's monitoring plan calls for the collection of statewide data on detained juveniles, and for making site visits to one-third of all facilities each year. The law requires that booking data be collected from all adult jails and lockups, and to visit each site even if no juveniles have been held.

In her visit, Ms. Dobbs will need to access to all records maintained on people who were booked into your community's jail or detention facility during 1989. She will also need to fully inspect the layout of the building and its cells. The collection of confidential records and the inspection are authorized by both state law and the federal Juvenile Justice and Delinquency Prevention Act.

In arranging for this project, the Justice Center has worked closely with Captain Glenn Godfrey, head of the Rural/Village Public Safety Officer Enforcement Unit with the Alaska State Troopers. Captain Godfrey has notified oversight Trooper Tom Clemons, who, in turn, has notified VPSO Carl Larsen Jr. of the data collection requirements and visit.

If you have questions about this project, please address them to Dr. Nancy Schafer, Principal Investigator, or Emily Read, Project Manager, at the Justice Center, 786-1810 collect.

Sincerely,

Richard Ilias
Youth Corrections Administrator

UNIVERSITY OF ALASKA ANCHORAGE

3211 Providence Drive
Anchorage, Alaska 99508
(907) 786-1810

JUSTICE CENTER

15 March 1990

Director Dennis Packer
North Slope Borough Department
of Public Safety
P.O. Box 470
Barrow, Alaska 99723

Dear Director Packer:

As we discussed in our telephone conversation yesterday, the UAA Justice Center has again contracted with the Alaska Division of Family and Youth Services (DFYS) to monitor the detention of juveniles in jails, lockups, detention centers and correctional facilities in Alaska. I would like to introduce myself as the manager of the current research effort and request assistance from your department in collecting detention data from eight village posts in the North Slope Borough.

As you know, the 1974 Juvenile Justice and Delinquency Prevention Act requires that each state monitor its detention and correctional facilities for the presence of status offenders, juvenile non-offenders, and juvenile criminal type offenders. Alaska's monitoring plan calls for the collection of statewide data on detained juveniles, and for making site visits to one-third of all facilities each year. The federal law requires us to collect booking data from all rural lockups and, within three years, to visit each site even if no juveniles have historically been held.

In the current cycle, we are collecting booking data from the calendar year 1989. I understand from David Parry, last year's project manager, that your office provided us with North Slope data after your staff collected it from the individual villages. I would like to request that this be done once more, since the relationship between village posts and the North Slope Borough Department of Public Safety makes this a viable alternative.

Specifically, the type of booking information we request for both adults and juveniles is as follows: **Date in, Time in, Name (or any unique identifier), Date of Birth, Charge, Race (if possible), Sex (if possible), Date out, Time out.** It is my understanding that eight North Slope Borough villages maintain adult lockups, including **Point Hope, Point Lay, Wainwright, Atkasook, Nuiqsut, Deadhorse, Kaktovik, and Anaktuvuk.** I request booking data from all eight villages, if the information is

maintained at each site.

I am enclosing eight copies of a "Certification of Authenticity and Completeness of Records" form. This form will need to be completed and signed by each Public Safety Officer who provides copies of village booking logs.

As mentioned, the second requirement of Alaska's JJDP monitoring plan is that all correctional and detention facilities, including adult lockups, be inspected by the research staff. There are two purposes in visiting adult rural lockups such as those in the North Slope Borough. First, we have to verify the booking data reported by each village to the North Slope Borough. In this effort, we are specifically interested in checking the accuracy of booking log entries as our chief source of data on juvenile detention in Alaska. We do this by cross-checking log entries against other case files maintained by police on site. Secondly, village lockups are visited in order to map facility layouts, and to determine if - and to what extent - each structure provides physical, visual and aural separation of juvenile and adult inmates.

I have <u>tentatively</u> reserved the weeks of May 20th and/or May 27th for visits to all eight of the specified North Slope Borough Villages. At this point in time, I plan on visiting all lockups, regardless of whether data is maintained on site. Any suggestions that you can make on arranging for this type of visit are wholeheartedly welcomed, as I have never been to the North Slope Borough.

The collection of otherwise confidential records and the inspection are authorized by both state law (AS 47.10.150 and AS 47.10.160) and the federal Juvenile Justice and Delinquency Prevention Act (42 U.S.C. 5601, Pub. L. No. 93-415, 88 Stat. 1109 (1974)). I am working closely with the Alaska Departments of Public Safety, Corrections, and Health and Social Services. If you have questions about authorization for this project, please to not hesitate to contact me by calling collect to 786-1821.

I am aware of the magnitude of work involved in meeting my requests, and I thank you in advance for your assistance and your consideration of the requirements of this project. I look forward to working with you and meeting you in the near future.

Sincerely,

Emily E. Read

Emily E. Read
Project Manager

UNIVERSITY OF ALASKA, ANCHORAGE
3221 Providence Drive
Anchorage, Alaska 99508
(907) 263-1810

JUSTICE CENTER

19 March 1990

Police Chief Chris Masters
Sand Point Police Department
P.O. Box 249
Sand Point, Alaska 99661

Dear Chief Masters:

As we discussed in our telephone conversation Thursday, I am coordinating a data collection and monitoring effort for the State Division of Family and Youth Services and am interested in obtaining booking data from all holding facilities, lockups, jails and correctional centers in Alaska. I am very interested in including Sand Point in my report.

Although the actual topic of this study is the extent to which juveniles are detained across Alaska, I am required to collect booking data on people of all ages. Specifically, I am wishing to collect the following facts on people booked during 1989:

> Date in, Time in, Charge (or other reason, such as protective custody), Name (or initials), Date of Birth, Race (if possible), Sex (if possible), Date out, Time out.

Booking forms recently implemented in contract jails also provide room to distinguish between individuals who were <u>booked</u> from individuals who were actually <u>locked up.</u> This information would also be appreciated, but is not required.

The rules that guide Alaska's monitoring plan require that all data be certifiable copies of the original forms, thus, if a lockup does not keep a log-type record, the data actually becomes copies of case file materials. This makes the task a very difficult one to complete for small police departments or single VPSOs. From our conversation, I gather that your general log contains most - but not all - of the pieces of information I am seeking, and that your prisoner files contain the other facts, such as race, sex, and date of birth.

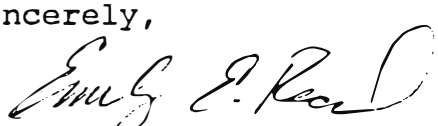
Given this, what I would request from you are 1) copies of the general log entries made during 1989 and 2) corresponding to each listed prisoner, a photocopy of <u>any page</u> in the prisoner file that lists the prisoner's date of birth. Purely secondary in importance is information on each prisoner's race and sex, but

birthdate is vital.

Please also consider whether you can reasonably meet this request, as you may well be unable to do so. As I mentioned, the monitoring guidelines also require site visits to one-third of all facilities each year of the three year cycle. If myself or another project researcher travelled to the Sand Point area, we could gather the data by hand without having to make photocopies of the various forms.

I look forward to hearing from you regarding this project. Any assistance you can provide is greatly appreciated. If you have questions, please do not hesitate to call me collect at 786-1821. Thank you.

Sincerely,



Emily E. Read
Project Manager

STEVE COWPER, GOVENOR

DEPT. OF HEALTH AND SOCIAL SERVICES

DIVISION OF FAMILY & YOUTH SERVICES
YOUTH CORRECTIONS SECTION

28 March 1990

Ms. Patricia Leeman
Bethel Youth Facility
P.O. Box 1988
Bethel, Alaska 99559

Dear Ms. Leeman:

The Justice Center at the University of Alaska Anchorage has again contracted with the State Division of Family and Youth Services to monitor Alaska's compliance with the mandates of the 1974 Juvenile Justice and Delinquency Prevention Act. This letter will introduce Emily Read, a researcher at the Justice Center, as project manager of the 1989 effort.

As you know, the 1974 Juvenile Justice and Delinquency Prevention Act requires that each state monitor its detention and correction centers for the presence of status offenders and juvenile non-offenders. Alaska's monitoring plan calls for the collection of statewide data on juvenile detention, and for conducting inspections at one-third of all such facilities each year.

Ms. Read has informed me that she has contacted you and has made arrangements to collect data from the Bethel Youth Facility. This letter will confirm her authorization to collect the following facts on each juvenile admitted into the Bethel detention unit during 1989: Date in, Time in, Name (or initials), Date of Birth, Charge, Race, Sex, Date out, Time out. Where required, Ms. Read is also authorized to tour the Bethel Youth Facility and to cross-check facts on juveniles by accessing case files, and monthly or quarterly reports.

The collection of otherwise confidential records and the facility inspection are authorized by both state law (AS 47.10.150 and AS 47.10.160) and the federal Juvenile Justice and Delinquency Prevention Act (42 U.S.C. 5601, Pub. L. No. 93-415, 88 Stat. 1109 (1974)). If you have any questions, please feel free to contact Ms. Read at the Justice Center at 786-1821.

Sincerely,

Richard Illias
Youth Services Administrator

UNIVERSITY OF ALASKA ANCHORAGE

3211 Providence Drive
Anchorage, Alaska 99508
(907) 786-1810

JUSTICE CENTER

29 March 1990

Ms. Patricia Leeman
Bethel Youth Facility
P.O. Box 1988
Bethel, Alaska 99559

Dear Ms. Leeman:

As we discussed in our telephone conversation, I am collecting information on juvenile detentions from all youth facilities, adult jails and lockups throughout Alaska. The data will be used toward monitoring institutional compliance with the mandates of the Juvenile Justice and Delinquency Prevention Act of 1974.

I am enclosing two documents, a letter of authorization from Dick Illias, and a data collection form that I constructed as an aid for reporting data. You are welcome to incorporate this form into your facility's future admission procedures. Unfortunately, I cannot allow you to report your facility's 1989 detentions on this form, as that would require that the data be transcribed. I must have certifiable copies of original documents. In Juneau, for example, I copied their "admit record" which, among other things, provided me with all the data I needed on each juvenile. I have received an entirely different type of document from the Nome Youth Facility, but again, it provides me with all the necessary information on each admission.

I appreciate your assistance. Please do not hesitate to call me if you have questions about the required data and how it needs to be reported. I may be reached at 786-1821.

Sincerely,

Emily E. Read
Project Manager

APPENDIX G

ALASKA LAWS, REGULATIONS AND EXECUTIVE ORDERS RELATED TO JUVENILE DETENTION

STATE OF ALASKA

Executive Proclamation

by

Steve Cowper, Governor

Confining children in adult jails is not in the best interest of Alaska's children or the public. In 1986 as many as 427 children were detained in adult jails and lockups throughout the state. Alaska statutes prohibit confinement of children in adult jails and lockups unless they are assigned to separate quarters so that they not view or communicate with adult prisoners.

The practice of jailing children with adults often leads to depression or suicide attempts. The risk of those children experiencing emotional, physical and sexual abuse is also increased.

The federal Juvenile Justice Delinquency Prevention Act mandates that states improve their juvenile justice systems by:

1. eliminating the practice of detaining children charged with status offenses;
2. separating children from adults by sight and sound when both are detained in the same jail, lockup, or other correctional facility;
3. identifying and monitoring all facilities which detain children;
4. eliminating the practice of detaining children in any adult jail, lockup, or correctional facility.

NOW, THEREFORE, I, Steve Cowper, Governor of the State of Alaska, do hereby proclaim my support for the Department of Health and Social Services to work with the Departments of Corrections and Public Safety, the public, and municipalities to develop regulations which reduce detention of children in adult facilities, ensure safe and appropriate conditions for children who are detained, and provide for collection and maintenance of accurate records on each youth admitted, detained and released.

DATED: April 14, 1989

Done by —

Steve Cowper, Governor, who has also authorized the seal of the State of Alaska to be affixed to this proclamation.

ALASKA STATUTES

SELECTED PROVISIONS

Sec. 04.16.050. Possession or consumption by persons under the age of 21. A person under the age of 21 years may not knowingly consume, possess, or control alcoholic beverages except those furnished persons under AS 04.16.051(b). (§ 3 ch 131 SLA 1980; am § 8 ch 109 SLA 1983)

Sec. 47.10.010. Jurisdiction. (a) Proceedings relating to a minor under 18 years of age residing or found in the state are governed by this chapter, except as otherwise provided in this chapter, when the court finds the minor

(1) to be a delinquent minor as a result of violating a criminal law of the state or a municipality of the state; or

(2) to be a child in need of aid as a result of

(A) the child being habitually absent from home or refusing to accept available care, or having no parent, guardian, custodian, or relative caring or willing to provide care, including physical abandonment by

(i) both parents,

(ii) the surviving parent, or

(iii) one parent if the other parent's rights and responsibilities have been terminated under AS 25.23.180(c) or AS 47.10.080 or voluntarily relinquished;

(B) the child being in need of medical treatment to cure, alleviate, or prevent substantial physical harm, or in need of treatment for mental harm as evidenced by failure to thrive, severe anxiety, depression, withdrawal, or untoward aggressive behavior or hostility toward others, and the child's parent, guardian, or custodian has knowingly failed to provide the treatment;

(C) the child having suffered substantial physical harm or if there is an imminent and substantial risk that the child will suffer such harm as a result of the actions done by or conditions created by the child's parent, guardian, or custodian or the failure of the parent, guardian, or custodian adequately to supervise the child;

(D) the child having been, or being in imminent and substantial danger of being, sexually abused either by the child's parent, guardian, or custodian, or as a result of conditions created by the child's parent, guardian, or custodian, or by the failure of the parent, guardian, or custodian adequately to supervise the child;

(E) the child committing delinquent acts as a result of pressure, guidance, or approval from the child's parents, guardian, or custodian;

(F) the child having suffered substantial physical abuse or neglect as a result of conditions created by the child's parent, guardian, or custodian.

(b) When a minor is accused of violating a traffic statute or regulation, a traffic ordinance or regulation of an incorporated municipality, AS 11.76.105 relating to the purchase of tobacco by a minor, a fish and game statute or regulation under AS 16, or a parks and recreational facilities statute or regulation under AS 41.21, excepting a statute the violation of which is a felony, the procedure prescribed in AS 47.10.020 — 47.10.090 may not be followed, except that a parent, guardian, or legal custodian shall be present at all proceedings. The minor accused of an offense specified in this subsection shall be charged, prosecuted, and sentenced in the district court in the same manner as an adult.

(c) In a controversy concerning custody of a minor, the court may appoint a guardian of the person and property of a minor and may order support from either or both parents. Custody of a minor may be given to the Department of Health and Social Services, and payment of support money to the department may be ordered.

(d) The provisions of AS 47.10.020 — 47.10.085 do not apply to driver's license proceedings under AS 28.15.185. The court shall impose a driver's license revocation under AS 28.15.185 in the same manner as adult driver's license revocations, except that a parent or legal guardian shall be present at all proceedings. (§ 4 art I ch 145 SLA 1957; am § 1 ch 76 SLA 1961; am §§ 1, 2 ch 110 SLA 1967; am § 1 ch 64 SLA 1969; am § 6 ch 104 SLA 1971; am §§ 7, 8 ch 63 SLA 1977; am § 1 ch 104 SLA 1982; am § 5 ch 39 SLA 1985; am § 17 ch 50 SLA 1987; am § 6 ch 125 SLA 1988; am § 3 ch 130 SLA 1988)

Sec. 47.10.130. Detention. No minor under 18 years of age who is detained pending hearing may be incarcerated in a jail unless assigned to separate quarters so that the minor cannot communicate with or view adult prisoners convicted of, under arrest for, or charged with a crime. When a minor is detained pending hearing, the minor's parent, guardian, or custodian shall be notified immediately. (§ 14 art I ch 145 SLA 1967)

Sec. 47.10.140. Temporary detention and detention hearing. (a) A peace officer may arrest a minor who violates a law or ordinance in the officer's presence, or whom the officer reasonably believes is a fugitive from justice. A peace officer may continue a lawful arrest made by a citizen. The officer may have the minor detained in a juvenile detention facility if in the officer's opinion it is necessary to do so to protect the minor or the community.

(b) A peace officer who has a minor detained under (a) of this section shall immediately, and in no event more than 12 hours later, notify the court, the minor's parents or guardian, and the Department of Health and Social Services of the officer's action. The department may file with the court a petition alleging delinquency before the detention hearing.

(c) The court shall immediately, and in no event more than 48 hours later, hold a hearing at which the minor and the minor's parents or guardian if they can be found shall be present. The court shall determine whether probable cause exists for believing the minor to be delinquent. The court shall inform the minor of the reasons alleged to constitute probable cause and the reasons alleged to authorize the minor's detention. The minor is entitled to counsel and to confrontation of adverse witnesses.

(d) If the court finds that probable cause exists, it shall determine whether the minor should be detained pending the hearing on the petition or released. It may either order the minor held in detention or released to the custody of a suitable person pending the hearing on the petition. If the court finds no probable cause, it shall order the minor released and close the case.

(e) Except for temporary detention pending a detention hearing, a minor may be detained only by court order.

(f) *[Repealed, § 3 ch 42 SLA 1985.]*

(g) *[Repealed, § 3 ch 42 SLA 1985.]* (§ 15 art I ch 145 SLA 1957; am § 3 ch 118 SLA 1962; am § 2 ch 100 SLA 1971; am § 6 ch 104 SLA 1971; am §§ 1, 2 ch 128 SLA 1972; am §§ 1, 3 ch 42 SLA 1985)

Sec. 47.10.141. Runaway and missing minors. (a) Upon receiving a written, telephonic, or other request to locate a minor evading the minor's legal custodian or to locate a minor otherwise missing, a law enforcement agency shall make reasonable efforts to locate the minor and shall immediately complete a missing person's report containing information necessary for the identification of the minor. As soon as practicable, but not later than 24 hours after completing the report, the agency shall transmit the report for entry into the Alaska Public Safety Information Network and the National Crime Information Center computer system. The report shall also be submitted to the missing persons information clearinghouse under AS 18.65.620. As soon as practicable, but not later than 24 hours after the agency learns that the minor has been located, it shall request that the Department of Public Safety and the Federal Bureau of Investigation remove the information from the computer systems.

(b) A peace officer shall take into protective custody a minor described in (a) of this section if the minor is not otherwise subject to arrest or detention. The peace officer shall honor the minor's preference to (1) return the minor to the legal custodian if the legal custodian consents to the return; (2) take the minor to a nearby location agreed to by the minor and the legal custodian; or (3) take the minor to an office specified by the Department of Health and Social Services, a program for runaway minors licensed by the department under AS 47.10.310, or a facility or contract agency of the department. If an office specified by the department, a licensed program for runaway minors, or a facility or contract agency of the department does not exist in the community, the officer shall take the minor to another suitable location and promptly notify the department. A minor under protective custody may not be housed in a jail or other detention facility. Immediately upon taking a minor into protective custody, the officer shall advise the minor orally and in writing of the right to social services under AS 47.10.142(b), and, if known, the officer shall advise the legal custodian that the minor has been taken into protective custody.

(c) A minor may be taken into emergency protective custody by a peace officer and placed into temporary detention in a juvenile detention home in the local community if there has been an order issued by a court under a finding of probable cause that (1) the minor is a runaway in wilful violation of a valid court order issued under AS 47.10.080 or 47.10.142(f), (2) the minor's current situation poses a severe and imminent risk to the minor's life or safety, and (3) no reasonable placement alternative exists within the community. For the purposes of this subsection, a risk may not be considered severe and imminent solely because of the general conditions for runaway minors in the community, but shall be assessed in view of the specific behavior and situation of the minor. A minor detained under this subsection shall be brought before a court on the day the minor is detained, or if that is not possible, within 24 hours after the detention for a hearing to determine the most appropriate placement in the best interests of the minor. A minor taken into emergeny protective custody under this subsection may not be detained for more than 24 hours, except as provided under AS 47.10.140. Emergency protective custody may not include placement of a minor in a jail or secure facility other than a juvenile detention home, nor may an order for protective custody be enforced against a minor who is residing in a licensed program for runaway minors, as defined in AS 47.10.390. (§ 2 ch 42 SLA 1985; am § 3 ch 72 SLA 1988; am §§ 1, 2 ch 144 SLA 1988)

Sec. 47.10.150. General powers of department over juvenile institutions. The Department of Health and Social Services may

(1) purchase, lease or construct buildings or other facilities for the care, detention, rehabilitation and education of children in need of aid or delinquent minors;

(2) adopt plans for construction of juvenile homes, juvenile detention facilities, and other juvenile institutions;

(3) adopt standards and regulations under this chapter for the design, construction, repair, maintenance and operation of all juvenile detention homes, facilities, and institutions;

(4) inspect periodically each juvenile detention home, facility, or other institution to ensure that the standards and regulations adopted are being maintained;

(5) reimburse cities maintaining and operating juvenile detention homes and facilities;

(6) enter into contracts and arrangements with cities and state and federal agencies to carry out the purposes of this chapter;

(7) do all acts necessary to carry out the purposes of this chapter;

(8) adopt the regulations necessary to carry out this chapter;

(9) accept donations, gifts or bequests of money or other property for use in construction of juvenile homes, institutions or detention facilities;

(10) operate juvenile homes when municipalities are unable to do so;

(11) receive, care for, and place in a juvenile detention home, the minor's own home, a foster home, or correctional school or treatment institution all minors committed to its custody under this chapter. (§ 3 art II ch 145 SLA 1957; am § 1 ch 152 SLA 1959; am § 6 ch 104 SLA 1971; am § 25 ch 63 SLA 1977)

Sec. 47.10.160. Duties of department. (a) The department shall

(1) accept all minors committed to the custody of the department and all minors who are involved in a written agreement under AS 47.10.230(c), and provide for the welfare, control, care, custody, and placement of these minors in accordance with this chapter;

(2) require and collect statistics on juvenile offenses and offenders in the state;

(3) conduct studies and prepare findings and recommendations on the need, number, type, construction, maintenance, and operating costs of juvenile homes, facilities, and the other institutions, and adopt and submit a plan for construction of the homes, facilities, and institutions when needed, together with a plan for financing the construction programs;

(4) examine, where possible, all facilities, institutions, and places of juvenile detention in the state and inquire into their methods and the management of juveniles in them.

(b) For the purpose of collecting statistics, the department shall establish and require state and local agencies that operate a jail or other detention facility to use a standardized form to keep a record and report the admission of a minor. The record shall be limited to the name of the minor admitted, the minor's date of birth, the specific offense for which the minor was admitted, the date and time admitted, the date and time released, the sex of the minor, the ethnic origin of the minor, and other information required by federal law. Except for the notation of the date and time of the minor's release, the record shall be prepared at the time of the minor's admission. Unless otherwise provided by law, information and records obtained under this subsection are confidential and are not public records. They may be disclosed only for the purpose of compiling statistics and in a manner that does not reveal the identity of the minor. (§ 5 art II ch 145 SLA 1957; am § 4 ch 110 SLA 1967; am § 4 ch 100 SLA 1971; am § 6 ch 104 SLA 1971; am § 1 ch 169 SLA 1990)

Sec. 47.10.180. Operation of homes and facilities. (a) The Department of Health and Social Services shall adopt standards and regulations for the operation of juvenile detention homes and juvenile detention facilities in the state.

(b) The department may enter into contracts with cities and other governmental agencies for the detention of juveniles before and after commitment by juvenile authorities. A contract may not be made for longer than one year. (§ 8 art II ch 145 SLA 1957; am § 3 ch 97 SLA 1960; am § 6 ch 104 SLA 1971)

Sec. 47.10.190. Conditions governing detention. When the court commits a minor to the custody of the department, the department shall arrange to place the juvenile in a detention home, facility or another suitable place which the department designates for that purpose. A juvenile detained in a jail or similar institution at the request of the department shall be held in custody in a room or other place apart and separate from adults. (§ 9 art II ch 145 SLA 1957)

Sec. 47.10.290. Definitions. In this chapter, unless the context otherwise requires,

(1) "care" or "caring" under AS 47.10.010(a)(2)(A), 47.10.120(a) and 47.10.230(c), means to provide for the physical, emotional, mental, and social needs of the child;

(2) "child in need of aid" means a minor found to be within the jurisdiction of the court under AS 47.10.010(a)(2);

(3) "court" means the superior court of the state;

(4) "delinquent minor" means a minor found to be within the jurisdiction of the court under AS 47.10.010(a)(1);

(5) "department" means the Department of Health and Social Services.

(6) "juvenile detention facility" means separate quarters within a city jail used for the detention of delinquent minors;

(7) "juvenile detention home" or "detention home" is a separate establishment, exclusively devoted to the detention of minors on a short-term basis and not a part of an adult jail;

(8) "minor" is a person under 18 years of age. (§ 1 art I ch 145 SLA 1957; am § 5 ch 110 SLA 1967; am §§ 5, 6 ch 27 SLA 1970; am §§ 27 — 28 ch 63 SLA 1977; am §§ 91, 92 ch 138 SLA 1986)

Sec. 47.30.705. Emergency detention for evaluation. A peace officer, a psychiatrist or physician who is licensed to practice in this state or employed by the federal government, or a clinical psychologist licensed by the state Board of Psychologists and Psychological Examiners who has probable cause to believe that a person is gravely disabled or is suffering from mental illness and is likely to cause serious harm to self or others of such immediate nature that considerations of safety do not allow initiation of involuntary commitment procedures set out in AS 47.30.700, may cause the person to be taken into custody and delivered to the nearest evaluation facility. A person taken into custody for emergency evaluation may not be placed in a jail or other correctional facility except for protective custody purposes and only while awaiting transportation to a treatment facility. The peace officer or mental health professional shall complete an application for examination of the person in custody and be interviewed by a mental health professional at the facility. (§ 1 ch 84 SLA 1981; am § 8 ch 142 SLA 1984)

Sec. 47.30.725. Commitment proceeding rights; notification. (a) When a respondent is detained for evaluation under AS 47.30.660 — 47.30.915, the respondent shall be immediately notified orally and in writing of the rights under this section. Notification shall be in a language understood by the respondent. The respondent's guardian, if any, and if the respondent requests, an adult designated by the respondent, shall also be notified of the respondent's rights under this section.

(b) Unless a respondent is released or voluntarily admitted for treatment within 72 hours of arrival at the facility or, if the respondent is evaluated by evaluation personnel, within 72 hours from the beginning of the respondent's meeting with evaluation personnel, the respondent is entitled to a court hearing to be set for not later than the end of that 72-hour period to determine whether there is cause for detention after the 72 hours have expired for up to an additional 30 days on the grounds that the respondent is mentally ill, and as a result presents a likelihood of serious harm to the respondent or others, or is gravely disabled. The facility or evaluation personnel shall give notice to the court of the releases and voluntary admissions under AS 47.30.700 — 47.30.820.

(c) The respondent has a right to communicate immediatley, at the department's expense, with the respondent's guardian, if any, or an adult designated by the respondent and the attorney designated in the ex parte order, or an attorney of the respondent's choice.

(d) The respondent has the right to be represented by an attorney, to present evidence, and to cross-examine witnesses who testify against the respondent at the hearing.

(e) The respondent has the right to be free of the effects of medication and other forms of treatment to the maximum extent possible before the 30-day commitment hearing; however, the facility or evaluation personnel may treat the respondent with medication under prescription by a licensed physician or by a less restrictive alternative of the respondent's preference if, in the opinion of a licensed physician in the case of medication, or of a mental health professional in the case of alternative treatment, the treatment is necesary to

(1) prevent bodily harm to the respondent or others;

(2) prevent such deterioration of the respondent's mental condition that subsequent treatment might not enable the respondent to recover; or

(3) allow the respondent to prepare for and participate in the proceedings.

(f) A respondent, if represented by counsel, may waive, orally or in writing, the 72-hour time limit on the 30-day commitment hearing and have the hearing set for a date no more than seven calendar days after arrival at the facility. The respondent's counsel shall immediately notify the court of the waiver. (§ 1 ch 84 SLA 1981; am § 10 ch 142 SLA 1984)

Sec. 47.30.730. Procedure for 30-day commitment; petition for commitment. (a) In the course of the 72-hour evaluation period, a petition for commitment to a treatment facility may be filed in court. The petition must be signed by two mental health professionals who have examined the respondent, one of whom is a physician. The petition must

(1) allege that the respondent is mentally ill and as a result is likely to cause harm to self or others or is gravely disabled;

(2) allege that the evaluation staff has considered but has not found that there are any less restrictive alternatives available that would adequately protect the respondent or others; or, if a less restrictive involuntary form of treatment is sought, specify the treatment and the basis for supporting it;

(3) allege with respect to a gravely disabled respondent that there is reason to believe that the respondent's mental condition could be improved by the course of treatment sought;

(4) allege that a specified treatment facility or less restrictive alternative that is appropriate to the respondent's condition has agreed to accept the respondent;

(5) allege that the respondent has been advised of the need for, but has not accepted, voluntary treatment, and request that the court commit the respondent to the specified treatment facility or less restrictive alternative for a period not to exceed 30 days;

(6) list the prospective witnesses who will testify in support of commitment or involuntary treatment; and

(7) list the facts and specific behavior of the respondent supporting the allegation in (1) of this subsection.

(b) A copy of the petition shall be served on the respondent, the respondent's attorney, and the respondent's guardian, if any, before the 30-day commitment hearing. (§ 1 ch 84 SLA 1981; am § 11 ch 142 SLA 1984)

Sec. 47.30.735. 30-Day commitment. (a) Upon receipt of a proper petition for commitment, the court shall hold a hearing at the date and time previously specified according to procedures set out in AS 47.30.715.

(b) The hearing shall be conducted in a physical setting least likely to have a harmful effect on the mental or physical health of the respondent, within practical limits. At the hearing, in addition to other rights specified in AS 47.30.660 — 47.30.915, the respondent has the right

(1) to be present at the hearing; this right may be waived only with the respondent's informed consent; if the respondent is incapable of giving informed consent, the respondent may be excluded from the hearing only if the court, after hearing, finds that the incapacity exists and that there is a substantial likelihood that the respondent's presence at the hearing would be severely injurious to the respondent's mental or physical health;

(2) to view and copy all petitions and reports in the court file of the respondent's case;

(3) to have the hearing open or closed to the public as the respondent elects;

(4) to have the rules of evidence and civil procedure applied so as to provide for the informal but efficient presentation of evidence;

(5) to have an interpreter if the respondent does not understand English;

(6) to present evidence on the respondent's behalf;

(7) to cross-examine witnesses who testify against the respondent;

(8) to remain silent;

(9) to call experts and other witnesses to testify on the respondent's behalf.

(c) At the conclusion of the hearing the court may commit the respondent to a treatment facility for not more than 30 days if it finds, by clear and convincing evidence, that the respondent is mentally ill and as a result is likely to cause harm to the respondent or others or is gravely disabled.

(d) If the court finds that there is a viable less restrictive alternative available and that the respondent has been advised of and refused voluntary treatment through the alternative, the court may order the less restrictive alternative treatment for not more than 30 days if the program accepts the respondent.

(e) The court shall specifically state to the respondent, and give the respondent written notice, that if commitment or other involuntary treatment beyond the 30 days is to be sought, the respondent shall have the right to a full hearing or jury trial. (§ 1 ch 84 SLA 1981; am § 12 ch 142 SLA 1984)

Sec. 47.30.915. Definitions. In AS 47.30.660 — 47.30.915

(1) "commissioner" means the commissioner of health and social services;

(2) "court" means a superior court of the state;

(3) "department" means the Department of Health and Social Services;

(4) "designated treatment facility" means a hospital, clinic, institution, center, or other health care facility that has been designated by the department for the treatment or rehabilitation of mentally ill persons and for the receipt of these persons by court-ordered commitment, but does not include correctional institutions;

(5) "evaluation facility" means a health care facility that has been designated or is operated by the department to perform the evaluations described in AS 47.30.660 — 47.30.915, or a medical facility licensed under AS 18.20.020 or operated by the federal government;

(6) "evaluation personnel" means mental health professionals designated by the department to conduct evaluations as prescribed in AS 47.30.660 — 47.30.915 who conduct evaluations in places in which no staffed evaluation facility exists;

(7) "gravely disabled" means a condition in which a person as a result of mental illness

(A) is in danger of physical harm arising from such complete neglect of basic needs for food, clothing, shelter, or personal safety as to render serious accident, illness or death highly probable if care by another is not taken; or

(B) will, if not treated, suffer or continue to suffer severe and abnormal mental, emotional or physical distress, and this distress is associated with significant impairment of judgment, reason or behavior causing a substantial deterioration of the person's previous ability to function independently;

(8) "inpatient treatment" means care and treatment rendered inside or on the premises of a treatment facility, or a part or unit of a treatment facility, for a continual period of 24 hours or longer;

(9) "least restrictive alternative" means mental health treatment facilities and conditions of treatment which are

(A) no more harsh, hazardous, or intrusive than necessary to achieve the treatment objectives of the patient; and

(B) involve no restrictions on physical movement nor supervised residence or inpatient care except as reasonably necessary for the administration of treatment or the protection of the patient or others from physical injury;

(10) "likely to cause serious harm" means a person who

(A) poses a substantial risk of bodily harm to that person's self, as manifested by recent behavior causing, attempting or threatening that harm;

(B) poses a substantial risk of harm to others as manifested by recent behavior causing, attempting, or threatening harm, and is likely in the near future to cause physical injury, physical abuse or substantial property damage to another person; or

Sec. 47.37.170. Treatment and services for intoxicated persons and persons incapacitated by alcohol. (a) An intoxicated person may come voluntarily to an approved public treatment facility for emergency treatment. A person who appears to be intoxicated in a public place and to be in need of help or a person who appears to be intoxicated in or upon a licensed premise where intoxicating liquors are sold or consumed who refuses to leave upon being requested to leave by the owner, an employee or a peace officer may be taken into protective custody and assisted by a peace officer or a member of the emergency service patrol to the person's home, an approved public treatment facility, an approved private treatment facility, or another appropriate health facility. If all of the preceding facilities, including the person's home, are determined to be unavailable, a person taken into protective custody and assisted under this subsection may be taken to a state or municipal detention facility in the area.

(b) A person who appears to be incapacitated by alcohol in a public place shall be taken into protective custody by a peace officer or a member of the emergency service patrol and immediately brought to an approved public treatment facility, an approved private treatment facility, or another appropriate health facility or service for emergency medical treatment. If no treatment facility or emergency medical service is available, a person who appears to be incapacitated by alcohol in a public place shall be taken to a state or municipal detention facility in the area, if that appears necessary for the protection of the person's health or safety.

(c) A person who voluntarily appears or is brought to an approved public treatment facility shall be examined by a licensed physician as soon as possible. After the examination, the person may be admitted as a patient or referred to another health facility. The approved public treatment facility which refers the person shall arrange for transportation.

(d) A person who, after medical examination, is found to be incapacitated by alcohol at the time of admission or to have become incapacitated at any time after admission, may not be detained at a facility after the person is no longer incapacitated by alcohol. A person may not be detained at a facility if the person remains incapacitated by alcohol for more than 48 hours after admission as a patient, unless the person is committed under AS 47.37.180. A person may consent to remain in the facility as long as the physician in charge considers it appropriate.

(e) A person who is not admitted to an approved public treatment facility, is not referred to another health facility, and has no funds, may be taken to the person's home, if any. If the person has no home, the approved public treatment facility shall assist the person in obtaining shelter.

(f) If a patient is admitted to an approved public treatment facility, the patient's family or next of kin shall be promptly notified. If an adult patient who is not incapacitated requests that there be no notification of next of kin, the patient's request shall be granted.

(g) Peace officers or members of the emergency service patrol who comply with this section are acting in the course of their official duty and are not criminally or civilly liable for it.

(h) If the physician in charge of the approved public treatment facility determines it is for the patient's benefit, an attempt shall be made to encourage the patient to submit to further diagnosis and appropriate voluntary treatment.

(i) A person taken to a detention facility under (a) or (b) of this section may be detained only (1) until a treatment facility or emergency medical service is made available, or (2) until the person is no longer intoxicated or incapacitated by alcohol, or (3) for a maximum period of 12 hours, whichever occurs first. A detaining officer or a detention facility official may release a person who is detained under (a) or (b) of this section at any time to the custody of a responsible adult. A peace officer or a member of the emergency service patrol, in detaining a person under (a) or (b) of this section and in taking the person to a treatment facility, an emergency medical service or a detention facility, is taking the person into protective custody and the officer or patrol member shall make reasonable efforts to provide for and protect the health and safety of the detainee. In taking a person into protective custody under (a) and (b) of this section, a detaining officer, a member of the emergency service patrol or a detention facility official may take reasonable steps for self-protection, including a full protective search of the person of a detainee. Protective custody under (a) and (b) of this section does not constitute an arrest and no entry or other record may be made to indicate that the person detained has been arrested or charged with a crime, except that a confidential record may be made which is necessary for the administrative purposes of the facility to which the person has been taken or which is necessary for statistical purposes where the person's name may not be disclosed.

(j) For purposes of (b) of this section, "incapacitated by alcohol" means a person who, as the result of consumption of alcohol, is rendered unconscious or has judgment or physical mobility so impaired that the person cannot readily recognize or escape conditions of apparent or imminent danger to personal health or safety. The definition in AS 47.37.270(9) applies to other portions of this chapter. (§ 1 ch 207 SLA 1972; am §§ 1-4 ch 101 SLA 1976)

ALASKA RULES OF COURT

DELINQUENCY RULES

SELECTED PROVISIONS

RULE 7. EMERGENCY DETENTION OR PLACEMENT

(a) Arrest.

(1) A juvenile may be arrested for the commission of a delinquent act under the same circumstances and in the same manner as would apply to the arrest of an adult for violation of a criminal law of the state or a municipality of the state.

(2) A peace officer or probation officer may, without a warrant, arrest a juvenile if probable cause exists to believe that the juvenile has violated conditions of release or probation.

(3) In conformity with the Interstate Compact on Juveniles, a peace officer may, without a requisition, arrest a juvenile based upon reasonable information that the juvenile is a delinquent and has escaped from an institution or absconded from probation, parole or the jurisdiction of a court.

(b) Detention, Placement, Notification. If a juvenile is arrested, the juvenile must be taken immediately to a detention facility or placement facility designated by the Department or released pursuant to paragraph (c) of this rule. The arresting officer shall immediately notify the parents, guardian and Department of the arrest and detention or placement, and shall make and retain a written record of the notification. If the juvenile is arrested under subparagraph (a)(3) of this rule, prompt notification must also be given to the Department of Law.

(c) Release. A peace officer or probation officer may, before taking the juvenile arrested under subparagraphs (a)(1) or (2) of this rule to a detention or other placement facility, release the juvenile to the juvenile's parents or guardian if detention or placement is not necessary to protect the juvenile or others, and the juvenile will be available for court hearings. The Department may direct that a juvenile arrested under paragraph (a) of this rule be released from detention before the temporary detention hearing.

Cross References: AS 47.10.095; AS 47.10.010(a)(1); AS 12.25; AS 47.10.140(a); AS 33.05.070(a); AS 47.15; AS 47.10.130; AS 47.10.140; AS 47.10.290(6) and (7).

RULE 12. TEMPORARY DETENTION HEARING

(a) Hearing Required. A juvenile detained under AS 47.10.140 must be taken before the court for a temporary detention hearing. The hearing must be held as soon as is practicable, but in no event later than 48 hours after notification to the court, including weekends and holidays.

(b) Detention or Placement After Hearing. A juvenile may not be detained or placed outside the home of a parent or guardian unless the court makes the following findings:

(1) that probable cause exists to believe that either (a) the juvenile has committed a delinquent act as alleged in a petition, or (b) after such a probable cause finding has been made at a prior hearing, the juvenile has violated a release condition or probation condition imposed by the court; and

(2) that detention or placement outside the home of a parent or guardian is necessary either (a) to protect the juvenile or others, or (b) to ensure the juvenile's appearance at subsequent court hearings. The court may not order detention unless there is no less restrictive alternative which would protect the juvenile and the public or ensure the juvenile's appearance at subsequent hearings.

(c) Release From Detention or Placement. The juvenile must be released to a parent, guardian, relative or some other responsible person upon such reasonable conditions as the court may set if insufficient reason exists to warrant detention or placement outside the home under paragraph (b) of this rule.

(d) Termination of Detention or Placement. A juvenile who has been detained for a period of 30 days, but who has not been adjudicated a delinquent, will be released unless, at or prior to the expiration of the 30 days, either:

(1) the court, after a hearing, orders continued detention and makes findings stating the reasons supporting the order; or

(2) the minor and the minor's attorney stipulate with the Department to continued detention.

If the juvenile is not in the same community as the court, the juvenile's participation at the hearing to determine continued detention may be by telephone. An order for placement outside the home pending adjudication or disposition must specify its duration.

Cross References: AS 47.10.030(c); AS 47.10.040; AS 47.10.050(b); AS 47.10.130; AS 47.10.140(c), (d).

RULE 13. JUDGE'S RESPONSIBILITY CONCERNING CONDITIONS OF DETENTION

A court exercising jurisdiction under these rules has a continuing duty to ascertain that appropriate conditions of detention of juveniles are observed concerning visitation, clothing, exercise, private visitation of counsel and confinement. A juvenile may not be confined in solitary confinement for punitive reasons.

ALASKA ADMINISTRATIVE CODE

TITLE 7
HEALTH AND SOCIAL SERVICES

SELECTED PROVISIONS

Article 2. Admission to Juvenile Correctional Facilities

7 AAC 52.005. REGIONAL CLASSIFICATION. (a) When a child has been institutionalized by court order, he shall appear before a regional classification committee for placement in a facility. The child and his parents or legal guardian must be given notice in writing at least five days before the hearing unless they waive the time period in writing.

(b) A regional classification committee must be composed of three persons selected by the regional administrator of the probation office located in the judicial district where the institutionalization order originated. The chairperson of the committee and other members, where practicable, must be employees of the department.

(c) Classification meetings must be informal and nonadversarial in nature. The committee shall reach a placement decision after considering the following factors:

(1) treatment objectives for the child;

(2) protection of the public and the child; and

(3) resources available to the division.

(d) Decisions must be made by a majority of the committee, and must be recorded in writing specifically discussing alternatives considered and reasons for rejecting them. All in-state resources must be exhausted for placement consideration before a child may be classified to an institution outside the state.

(e) Immediately following a placement decision, the committee shall verbally inform the child of that decision and the findings on which it was based. Written notice of the findings must be provided to the child, his attorney, and his parents or legal guardian within 10 working days following the classification action. If the placement facility designated by the committee refuses a referral, the child must be reclassified without undue delay. (Eff. 7/3/80, Register 74)

Authority: AS 47.10.150
AS 47.10.190
AS 47.10.230

7 AAC 52.010. CRITERIA FOR ADMISSION. When a child has been institutionalized by court order and classified to a particular facility by a regional classification committee, that facility may accept or reject the child on the basis of:

(1) the ability of the facility to help the child taking into consideration other available alternatives;

(2) the ability of the child to participate in the programs of the facility; and

(3) the population of the facility.

(Eff. 7/3/80, Register 74)

Authority: AS 47.10.150
AS 47.10.190

7 AAC 52.015. LEGAL AUTHORITY TO ADMIT. No child may be admitted to a juvenile correctional institution unless:

(1) he has been adjudicated delinquent;

(2) his official record contains a valid institutional order; and

(3) he has been classified to the facility by a regional classification committee. (Eff. 7/3/80, Register 74)

Authority: AS 47.10.080
AS 47.10.150

7 AAC 52.020. SEARCH UPON ADMISSION. Institutional staff members may search each juvenile for contraband immediately upon his entrance to the institution. (Eff. 7/3/80, Register 74)

Authority: AS 47.10.150
AS 47.10.250

7 AAC 52.025. PHYSICAL EXAMINATION. Each new resident of a facility must be given a complete physical examination by medical personnel within five days after admission. (Eff. 7/3/80, Register 74)

Authority: AS 47.10.150
AS 47.10.250

7 AAC 52.030. PHOTOGRAPHS AND FINGERPRINTS. Juveniles may not be photographed or fingerprinted except by court order. (Eff. 7/3/80, Register 74)

Authority: AS 47.10.150
AS 47.10.250

7 AAC 52.035. PLACEMENT IN TREATMENT PROGRAM. All children accepted by a facility must be classified and placed within a treatment program consistent with the treatment and rehabilitative needs of the individual. A treatment board shall screen, classify and designate a child to a living unit within the facility upon consideration of the child's permanent record and any psychological testing administered to the child. A treatment board shall meet within two weeks of the date on which a child is received at the institution. On the basis of information available, the board shall establish treatment goals, prescribe treatment strategy and techniques, establish a vocational or academic training program or both, and determine living unit and counselor assignments. (Eff. 7/3/80, Register 74)

Authority: AS 47.10.150
AS 47.10.250

7 AAC 52.040. CLOTHING AND VALUABLES. A juvenile correctional facility shall have an approved list of the maximum amount of clothing and personal items a child may have. All money and excess personal property taken from the child on admission must be stored, or provision made to send those items to the child's parents or guardian. The child must be given a receipt for stored items. Stored property must be returned to the child upon release. The state is not responsible for any personal property retained by the child. (Eff. 7/3/80, Register 74)

Authority: AS 47.10.150
AS 47.10.250

Article 8. Juvenile Detention Facilities

7 AAC 52.395. LEGAL AUTHORITY TO ADMIT. No child may be admitted to a juvenile detention facility without completion of a request for detention by a commissioned law enforcement officer, probation officer, intake officer, or a current and valid court order committing the child to the detention facility. (Eff. 7/3/80, Register 74)

Authority: AS 47.10.080 AS 47.10.150
AS 47.10.140 AS 47.10.180
AS 47.10.250

7 AAC 52.400. NOTIFICATION OF COURT. Institution staff shall notify the appropriate court within 24 hours of admission that a child has been admitted to detention, unless the child is admitted under court order. (Eff. 7/3/80, Register 74)

Authority: AS 47.10.140 AS 47.10.180
AS 47.10.150 AS 47.10.250

7 AAC 52.405. SEARCH UPON ADMISSION. (a) Institutional staff members shall search each child for weapons or other contraband immediately upon his entrance to the detention facility.

(b) A full and complete search of the child and his personal effects must be made to complete the admission process. The purpose of the search is to seize contraband or to ascertain the child's true identity. The staff member may require the child to undress and a more careful inspection may be made. Female staff members shall conduct searches of girls; male staff members shall conduct searches of boys. A search may be deferred while a child is incapacitated. (Eff. 7/3/80, Register 74)

Authority: AS 47.10.150
AS 47.10.180
AS 47.10.250

7 AAC 52.410. COMMUNICATIONS UPON ADMISSION. (a) Immediately upon entrance to a detention facility, a child must be permitted to make phone calls or other communications reasonably necessary to communicate with an attorney and parents or guardian,

subject to (b) of this section. All long-distance calls must be made collect or arranged so as not to be made at the expense of the institution, unless authorized by the superintendent.

(b) Institutional staff members may search a child under sec. 405(a) of this chapter before allowing him to communicate under (a) of this section. (Eff. 7/3/80, Register 74)

Authority: AS 47.10.150
AS 47.10.180
AS 47.10.250

7 AAC 52.415. HEALTH INSPECTION UPON ADMISSION. (a) A juvenile detention facility shall provide for the safekeeping, housing, care, and subsistence of those children admitted under sec. 400 of this chapter. However, if the admitting institutional staff member finds the child to be unconscious or in immediate need of medical attention, the admitting staff member shall advise the remanding or admitting party to contact responsible medical authority. The admission process may not be commenced until the admitting staff member is satisfied that the admittee has received medical attention.

(b) During the admission process, the admitting staff member shall determine whether the admittee is in need of any medical attention by inspecting for obvious injuries or illnesses, and by inquiring about any medical problems or recent use of medication or unprescribed drugs. Children who appear to be ill, injured, or incapacitated by alcohol, narcotics, or similar agents, but not in immediate need of medical attention, must be given medical attention as soon as practical. A written record must be kept of the admission interview and health inspection. (Eff. 7/3/80, Register 74)

Authority: AS 47.10.150
AS 47.10.180
AS 47.10.250

7 AAC 52.420. CLOTHING AND VALUABLES. A juvenile detention facility shall have an approved list of the maximum amount of clothing and personal items a child may have. All money and excess personal property taken from the child on admission must be stored, or provision made to send those items to the child's parents or guardian. The child must be given a receipt for stored items. Stored property must be returned to the child upon release. The state is not responsible for any personal property retained by the child. (Eff. 7/3/80, Register 74)

Authority: AS 47.10.150
AS 47.10.180
AS 47.10.250

7 AAC 52.425. EDUCATION. Each resident must be given a reasonable opportunity to continue his education within the limits imposed by security requirements. Those residents detained in excess of 10 days must be provided a program of study through the local school district. (Eff. 7/3/80, Register 74)

Authority: AS 47.10.150
AS 47.10.250

7 AAC 52.430. RECREATION AND EXERCISE. (a) Each child must be offered the opportunity for outdoor physical exercise for a minimum of 30 minutes each day, and a recreation program compatible with the varying needs and abilities of children residing at the institution.

(b) Indoor physical exercise may be substituted for outdoor exercise where weather conditions make such activities inappropriate.

(c) The recreation program must include other leisure activities as well as physical exercise. (Eff. 7/3/80, Register 74)

Authority: AS 47.10.150
AS 47.10.180
AS 47.10.250

7 AAC 52.435. RELIGIOUS ACTIVITY. (a) Each resident must be given a reasonable opportunity to pursue his faith.

(b) Participation in religious services conducted at a facility is voluntary. (Eff. 7/3/80, Register 74)

Authority: AS 47.10.150
AS 47.10.180
AS 47.10.250

7 AAC 52.440. RELEASE FROM DETENTION. Unless a court orders otherwise, a child must be released from detention whenever 48 hours have passed and the child has not had a hearing under AS 47.10.140. (Eff. 7/3/80, Register 74)

Authority: AS 47.10.140 AS 47.10.180
AS 47.10.150 AS 47.10.250

7 AAC 52.445. RULES. (a) A set of rules along with the potential disciplinary action for violation of those rules must be adopted for each living unit within the institution. These rules must be in writing, must be given to each resident entering the institution, and must be available for inspection by residents at any time. If a resident is unable to understand the written rules, a counselor shall read and explain them. All rules must be approved by the director.

(b) Conduct of residents may not result in disciplinary action unless it is prohibited by the written rules of the institution or by state statute or local ordinance. (Eff. 7/3/80, Register 74)

Authority: AS 47.10.150
AS 47.10 180
AS 47.10.250

7 AAC 52.450. ADJUSTMENT ROOMS. (a) An adjustment room may be used only if a child is out of control and is

(1) a physical danger to others;

(2) a physical danger to himself; or

(3) so disruptive as to be a major interference to the other children in the unit.

(b) A child who is held in an adjustment room for longer than a total of 24 hours in a seven-day period, or longer than a total of four hours in a 24-hour period must be seen by a physician, psychologist, or psychiatrist, who shall submit a written report concerning the child's physical and mental condition to the superintendent, which must then be placed in the child's file.

(c) No child may be held in an adjustment room for more than 60 continuous minutes without the approval of the designated senior staff member on duty. No child may be placed in an adjustment room for over a total of four hours in any seven-day period without the express consent of the superintendent or, in his absence, the acting superintendent. If, in the opinion of the superintendent, it is necessary to place a child in an adjustment room for over 24 hours in any seven-day period, the superintendent shall make written findings to support his conclusion and shall send these to the family court, together with the report received from the examining physician, psychologist, or psychiatrist.

(d) A staff member of the institution shall observe each child in an adjustment room at least once every half hour. During non-sleeping hours, verbal contact must be made with each child observed.

(e) Complete records must be maintained in all instances of the use of an adjustment room and a record must be kept of all staff contacts while the child is in the adjustment room. (Eff. 7/3/80, Register 74)

Authority: AS 47.10.150
AS 47.10.180
AS 47.10.250

7 AAC 52.455. HARSH DISCIPLINE. No disciplinary action may be taken in the form of depriving a child of adequate food, drink, clothing, bedding, or adequate room temperature. Corporal punishment may not be used. (Eff. 7/3/80, Register 74)

Authority: AS 47.10.150
AS 47.10.180
AS 47.10.250

Article 9. General Provisions

Section
900. Definitions

7 AAC 52.900. DEFINITIONS. In this chapter, unless the context otherwise requires

(1) "adjustment room" means a locked, single room with a bed and toilet facilities in a secure area of a juvenile institution;

(2) "admission" means the administrative process of initially accepting a child into a juvenile correctional facility or a juvenile detention facility;

(3) "commissioner" means the commissioner of the Alaska Department of Health and Social Services, or any employee of the department designated by him to carry out any official function of the commissioner;

(4) "contraband" has the same meaning as in 7 AAC 60.660;

(5) "counselor" means a person who provides counseling, care, and supervision services for residents of a juvenile institution;

(6) "department" means the Alaska Department of Health and Social Services;

(7) "director" means the director of the Division of Family and Youth Services, or any employee of the division designated by him or the commissioner to carry out any official function of the director;

(8) "division" means the Division of Family and Youth Services;

(9) "family" means any person or group of persons having a relationship to the child of spouse, father, mother, sister, brother, son, daughter, step relationship to the previously mentioned relations, or any persons having an immediate family relationship with the resident during his formative years;

(10) "institution-wide emergency" means a situation in which a resident poses a threat to the security of a juvenile institution which cannot be neutralized with the resources available to the institution at any given moment in time;

(11) "juvenile correctional institution" or "juvenile correctional facility" means a facility for children adjudicated delinquent and committed to the care and custody of the Department of Health and Social Services;

(12) "juvenile detention facility" means an institution or separate quarters within an institution designated by the director for the purpose of housing children who are detained pending court hearing, disposition, or transfer to another institution;

(13) "juvenile institution" or "juvenile facility" means a juvenile correctional facility or a juvenile detention facility;

(14) "living unit" means separate living quarters for a group of children within a juvenile institution;

(15) "resident" means a child under the care and control of an institution;

(16) "security" means the interest of the division in preventing assaults, escapes, hazards to health, self-destructive behavior, serious property damage, and the introduction, transmittal, or possession of contraband;

(17) "superintendent" means the chief administrator of a juvenile institution facility;

(18) "working day" means a 24-hour period of which no portion includes Saturdays, Sundays, or holidays. (Eff. 7/3/80, Register 74)

Authority: AS 47.10.150 AS 47.10.250
AS 47.10.180 AS 47.10.290

PART 2

JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974

As Amended Through December 31, 1989

[COMMITTEE PRINT]

COMPILATION

OF THE

JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974

AND

RELATED PROVISIONS OF LAW

As Amended Through December 31, 1989

PREPARED FOR THE

SUBCOMMITTEE ON HUMAN RESOURCES

OF THE

COMMITTEE ON EDUCATION AND LABOR

OF THE

U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED FIRST CONGRESS

SECOND SESSION

JUNE 21, 1990

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JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974

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ANTI-DRUG ABUSE ACT OF 1988

JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974 [1]

(Public Law 93-415; 88 Stat. 1109)

AN ACT To provide a comprehensive, coordinated approach to the problems of juvenile delinquency, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Juvenile Justice and Delinquency Prevention Act of 1974".

(*42 U.S.C. 5601 note*)

TITLE I—FINDINGS AND DECLARATION OF PURPOSE

FINDINGS

SEC. 101. (a) The Congress hereby finds that—

(1) juveniles accounted for almost half the arrests for serious crimes in the United States in 1974 and for less than one-third of such arrests in 1983;

(2) understaffed, overcrowded juvenile courts, probation services, and correctional facilities and inadequately trained staff in such courts, services, and facilities are not able to provide individualized justice or effective help;

(3) present juvenile courts, foster and protective care programs, and shelter facilities are inadequate to meet the needs of children, who, because of this failure to provide effective services, may become delinquents;

(4) existing programs have not adequately responded to the particular problems of the increasing numbers of young people who are addicted to or who abuse alcohol and other drugs, particularly nonopiate or polydrug abusers;

(5) juvenile delinquency can be reduced through programs designed to keep students in elementary and secondary schools through the prevention of unwarranted and arbitrary suspensions and expulsions;

(6) State and local communities which experience directly the devastating failures of the juvenile justice system do not presently have sufficient technical expertise or adequate re-

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[1] This Compilation reflects amendments made to the Juvenile Justice and Delinquency Prevention Act of 1974 by the Fiscal Year Adjustment Act (Public Law 94-273; 90 Stat. 375), the Crime Control Act of 1976 (Public Law 94-503; 90 Stat. 2407), the Juvenile Justice Amendments of 1977 (Public Law 95-115; 91 Stat. 1048), the Juvenile Justice Amendments of 1980 (Public Law 96-509; 94 Stat. 2750), the Juvenile Justice, Runaway Youth, and Missing Children's Act Amendments of 1984 (Public Law 98-473; 98 Stat. 2107), and Subtitle F of Title VII of the Anti-Drug Abuse Act of 1988 (Public Law 100-690; 102 Stat. 4434).

sources to deal comprehensively with the problems of juvenile delinquency;

(7) existing Federal programs have not provided the direction, coordination, resources, and leadership required to meet the crisis of delinquency; and

(8) the juvenile justice system should give additional attention to the problem of juveniles who commit serious crimes, with particular attention given to the areas of sentencing, providing resources necessary for informed dispositions, and rehabilitation.

(b) Congress finds further that the high incidence of delinquency in the United States today results in enormous annual cost and immeasurable loss of human life, personal security, and wasted human resources and that juvenile delinquency constitutes a growing threat to the national welfare requiring immediate and comprehensive action by the Federal Government to reduce and prevent delinquency.

(42 U.S.C. 5601)

PURPOSE

SEC. 102. (a) It is the purpose of this Act—

(1) to provide for the thorough and ongoing evaluation of all federally assisted juvenile delinquency programs;

(2) to provide technical assistance to public and private agencies, institutions, and individuals in developing and implementing juvenile delinquency programs;

(3) to establish training programs for persons, including professionals, paraprofessionals, and volunteers, who work with delinquents or potential delinquents or whose work or activities relate to juvenile delinquency programs;

(4) to establish a centralized research effort on the problems of juvenile delinquency, including the dissemination of the findings of such research and all data related to juvenile delinquency;

(5) to develop and encourage the implementation of national standards for the administration of juvenile justice, including recommendations for administrative, budgetary, and legislative action at the Federal, State, and local level to facilitate the adoption of such standards;

(6) to assist State and local communities with resources to develop and implement programs to keep students in elementary and secondary schools and to prevent unwarranted and arbitrary suspensions and expulsions;

(7) to establish a Federal assistance program to deal with the problems of runaway and homeless youth; and

(8) to assist State and local governments in removing juveniles from jails and lockups for adults.

(b) It is therefore the further declared policy of Congress to provide the necessary resources, leadership, and coordination (1) to develop and implement effective methods of preventing and reducing juvenile delinquency, including methods with a special focus on maintaining and strengthening the family unit so that juveniles may be retained in their homes; (2) to develop and conduct effective

programs to prevent delinquency, to divert juveniles from the traditional juvenile justice system and to provide critically needed alternatives to institutionalization; (3) to improve the quality of juvenile justice in the United States; and (4) to increase the capacity of State and local governments and public and private agencies to conduct effective juvenile justice and delinquency prevention and rehabilitation programs and to provide research, evaluation, and training services in the field of juvenile delinquency prevention.

(42 U.S.C. 5602)

DEFINITIONS

SEC. 103. For purposes of this Act—

(1) the term "community based" facility, program, or service means a small, open group home or other suitable place located near the juvenile's home or family and programs of community supervision and service which maintain community and consumer participation in the planning operation, and evaluation of their programs which may include, but are not limited to, medical, educational, vocational, social, and psychological guidance, training, special education, counseling, alcoholism treatment, drug treatment, and other rehabilitative services;

(2) the term "Federal juvenile delinquency program" means any juvenile delinquency program which is conducted, directly, or indirectly, or is assisted by any Federal department or agency, including any program funded under this Act;

(3) the term "juvenile delinquency program" means any program or activity related to juvenile delinquency prevention, control, diversion, treatment, rehabilitation, planning, education, training, and research, including drug and alcohol abuse programs; the improvement of the juvenile justice system; and any program or activity to help prevent juvenile delinquency;

(4)(A) the term "Bureau of Justice Assistance" means the bureau established by section 401 of the Omnibus Crime Control and Safe Streets Act of 1968; [1]

(B) the term "Office of Justice Programs" means the office established by section 101 of the Omnibus Crime Control and Safe Streets Act of 1968; [2]

(C) the term "National Institute of Justice" means the institute established by section 202(a) of the Omnibus Crime Control and Safe Streets Act of 1968; [3] and

(D) the term "Bureau of Justice Statistics" means the bureau established by section 302(a) of the Omnibus Crime Control and Safe Streets Act of 1968; [4]

(5) the term "Administrator" means the agency head designated by section 201(b);

(6) the term "law enforcement and criminal justice" means any activity pertaining to crime prevention, control, or reduction or the enforcement of the criminal law, including, but not limited to police efforts to prevent, control, or reduce crime or

[1] (42 U.S.C. 3741).
[2] (42 U.S.C. 3711).
[3] (42 U.S.C. 3721).
[4] (42 U.S.C. 3732).

to apprehend criminals, activities of courts having criminal jurisdiction and related agencies (including prosecutorial and defender services), activities of corrections, probation, or parole authorities, and programs relating to the prevention, control, or reduction of juvenile delinquency or narcotic addiction;

(7) the term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands;

(8) the term "unit of general local government" means any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State, an Indian tribe which performs law enforcement functions as determined by the Secretary of the Interior, or, for the purpose of assistance eligibility, any agency of the District of Columbia government performing law enforcement functions in and for the District of Columbia and funds appropriated by the Congress for the activities of such agency may be used to provide the non-Federal share of the cost of programs or projects funded under this title;

(9) the term "combination" as applied to States or units of general local government means any grouping or joining together of such States or units for the purpose of preparing, developing, or implementing a juvenile justice and delinquency prevention plan;

(10) the term "construction" means acquisition, expansion, remodeling, and alteration of existing buildings, and initial equipment of any such buildings, or any combination of such activities (including architects' fees but not the cost of acquisition of land for buildings);

(11) the term "public agency" means any State, unit of local government, combination of such States or units, or any department, agency, or instrumentality of any of the foregoing;

(12) the term "secure detention facility" means any public or private residential facility which—

(A) includes construction fixtures designed to physically restrict the movements and activities of juveniles or other individuals held in lawful custody in such facility; and

(B) is used for the temporary placement of any juvenile who is accused of having committed an offense, of any nonoffender, or of any other individual accused of having committed a criminal offense;

(13) the term "secure correctional facility" means any public or private residential facility which—

(A) includes construction fixtures designed to physically restrict the movements and activities of juveniles or other individuals held in lawful custody in such facility; and

(B) is used for the placement, after adjudication and disposition, of any juvenile who has been adjudicated as having committed an offense, any nonoffender, or any other individual convicted of a criminal offense;

(14) the term "serious crime" means criminal homicide, forcible rape or other sex offenses punishable as a felony, mayhem,

kidnapping, aggravated assault, robbery, larceny or theft punishable as a felony, motor vehicle theft, burglary or breaking and entering, extortion accompanied by threats of violence, and arson punishable as a felony;

(15) the term "treatment" includes but is not limited to medical, educational, special education, social, psychological, and vocational services, corrective and preventive guidance and training, and other rehabilitative services designed to protect the public, including services designed to benefit addicts and other users by eliminating their dependence on alcohol or other addictive or nonaddictive drugs or by controlling their dependence and susceptibility to addiction or use;

(16) the term "valid court order" means a court order given by a juvenile court judge to a juvenile who has been brought before the court and made subject to a court order. The use of the word "valid" permits the incarceration of juveniles for violation of a valid court order only if they received their full due process rights as guaranteed by the Constitution of the United States;

(17) the term "Council" means the Coordinating Council on Juvenile Justice and Delinquency Prevention established in section 206(a)(1); and

(18) the term "Indian tribe" means—

(A) a federally recognized Indian tribe; or

(B) an Alaskan Native organization.

(42 U.S.C. 5603)

TITLE II—JUVENILE JUSTICE AND DELINQUENCY PREVENTION

PART A—JUVENILE JUSTICE AND DELINQUENCY PREVENTION OFFICE

ESTABLISHMENT OF OFFICE

SEC. 201. (a) There is hereby established an Office of Juvenile Justice and Delinquency Prevention (hereinafter in this division referred to as the "Office") within the Department of Justice under the general authority of the Attorney General.

(b) The Office shall be headed by an Administrator (hereinafter in this title referred to as the "Administrator") appointed by the President, by and with the advice and consent of the Senate, from among individuals who have had experience in juvenile justice programs. The Administrator is authorized to prescribe regulations consistent with this Act to award, administer, modify, extend, terminate, monitor, evaluate, reject, or deny all grants and contracts from, and applications for, funds made available under this title. The Administrator shall report to the Attorney General through the Assistant Attorney General who heads the Office of Justice Programs under part A of title I of the Omnibus Crime Control and Safe Streets Act of 1968.[1]

(c) There shall be in the Office a Deputy Administrator who shall be appointed by the Attorney General. The Deputy Administrator

[1] (42 U.S.C. 3711–3712).

shall perform such functions as the Administrator may from time to time assign or delegate and shall act as the Administrator during the absence or disability of the Administrator.

(42 U.S.C. 5611)

PERSONNEL, SPECIAL PERSONNEL, EXPERTS, AND CONSULTANTS

SEC. 202. (a) The Administrator is authorized to select, employ, and fix the compensation of such officers and employees, including attorneys, as are necessary to perform the functions vested in the Administrator and to prescribe their functions.

(b) The Administrator is authorized to select, appoint, and employ not to exceed three officers and to fix their compensation at rates not to exceed the rate now or hereafter prescribed for GS–18 of the General Schedule by section 5332 of title 5 of the United States Code.

(c) Upon the request of the Administrator, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of its personnel to the Administrator to assist the Administrator in carrying out the functions of the Administrator under this Act.

(d) The Administrator may obtain services as authorized by section 3109 of title 5 of the United States Code, at rates not to exceed the rate now or hereafter prescribed for GS–18 of the General Schedule by section 5332 of title 5 of the United States Code.

(42 U.S.C. 5612)

VOLUNTARY SERVICE

SEC. 203. The Administrator is authorized to accept and employ, in carrying out the provisions of this Act, voluntary and uncompensated services notwithstanding the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)).

(42 U.S.C. 5613)

CONCENTRATION OF FEDERAL EFFORTS

SEC. 204. (a) The Administrator shall implement overall policy and develop objectives and priorities for all Federal juvenile delinquency programs and activities relating to prevention, diversion, training, treatment, rehabilitation, evaluation, research, and improvement of the juvenile justice system in the United States. In carrying out the functions of the Administrator, the Administrator shall consult with the Council.

(b) In carrying out the purposes of this Act, the Administrator shall—

(1) advise the President through the Attorney General as to all matters relating to federally assisted juvenile deliquency programs and Federal policies regarding juvenile delinquency;

(2) assist operating agencies which have direct responsibilities for the prevention and treatment of juvenile delinquency in the development and promulgation of regulations, guidelines, requirements, criteria, standards, procedures, and budget requests in accordance with the policies, priorities, and objectives the Administrator establishes;

(3) conduct and support evaluations and studies of the performance and results achieved by Federal juvenile delinquency programs and activities and of the prospective performance and results that might be achieved by alternative programs and activities supplementary to or in lieu of those currently being administered;

(4) implement Federal juvenile delinquency programs and activities among Federal departments and agencies and between Federal juvenile delinquency programs and activities and other Federal programs and activities which the Administrator determines may have an important bearing on the success of the entire Federal juvenile delinquency effort;

(5)(A) develop for each fiscal year, and publish annually in the Federal Register for public comment, a proposed comprehensive plan describing the particular activities which the Administrator intends to carry out under parts C and D in such fiscal year, specifying in detail those activities designed to satisfy the requirements of parts C and D; and

(B) taking into consideration comments received during the 45-day period beginning on the date the proposed plan is published, develop and publish a final plan, before December 31 of such fiscal year, describing the particular activities which the Administrator intends to carry out under parts C and D in such fiscal year, specifying in detail those activities designed to satisfy the requirements of parts C and D; and

(6) provide for the auditing of monitoring systems required under section 223(a)(15) to review the adequacy of such systems.

(c) The Administrator may require, through appropriate authority, Federal departments and agencies engaged in any activity involving any Federal juvenile delinquency program to provide the Administrator with such information and reports, and to conduct such studies and surveys, as the Administrator may deem to be necessary to carry out the purposes of this part.

(d) The Administrator may delegate any of the functions of the Administrator under this title, to any officer or employee of the Office.

(e) The Administrator is authorized to utilize the services and facilities of any agency of the Federal Government and of any other public agency or institution in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement as may be agreed upon.

(f) The Administrator is authorized to transfer funds appropriated under this section to any agency of the Federal Government to develop or demonstrate new methods in juvenile delinquency prevention and rehabilitation and to supplement existing delinquency prevention and rehabilitation programs which the Administrator finds to be exceptionally effective or for which the Administrator finds there exists exceptional need.

(g) The Administrator is authorized to make grants to, or enter into contracts with, any public or private agency, organization, institution, or individual to carry out the purposes of this title.

(h) All functions of the Administrator under this title shall be coordinated as appropriate with the functions of the Secretary of Health and Human Services under title III of this Act.

(i)(1) The Administrator shall require through appropriate authority each Federal agency which administers a Federal juvenile delinquency program to submit annually to the Council a juvenile delinquency development statement. Such statement shall be in addition to any information, report, study, or survey which the Administrator may require under subsection (c).

(2) Each juvenile delinquency development statement submitted to the Administrator under paragraph (1) shall contain such information, data, and analyses as the Administrator may require. Such analyses shall include an analysis of the extent to which the juvenile delinquency program of the Federal agency submitting such development statement conforms with and furthers Federal juvenile delinquency prevention and treatment goals and policies.

(3) The Administrator shall review and comment upon each juvenile delinquency development statement transmitted to the Administrator under paragraph (1). Such development statement, together with the comments of the Administrator, shall be included by the Federal agency involved in every recommendation or request made by such agency for Federal legislation which significantly affects juvenile delinquency prevention and treatment.

(42 U.S.C. 5614)

JOINT FUNDING

SEC. 205. Notwithstanding any other provision of law, where funds are made available by more than one Federal agency to be used by any agency, organization, institution, or individual to carry out a Federal juvenile delinquency program or activity, any one of the Federal agencies providing funds may be requested by the Administrator to act for all in administering the funds advanced whenever the Administrator finds the program or activity to be exceptionally effective or for which the Administrator finds exceptional need. In such cases, a single non-Federal share requirement may be established according to the proportion of funds advanced by each Federal agency, and the Administrator may order any such agency to waive any technical grant or contract requirement (as defined in such regulations) which is inconsistent with the similar requirement of the administering agency or which the administering agency does not impose.

(42 U.S.C. 5615)

COORDINATING COUNCIL ON JUVENILE JUSTICE AND DELINQUENCY PREVENTION

SEC. 206. (a)(1) There is hereby established, as an independent organization in the executive branch of the Federal Government a Coordinating Council on Juvenile Justice and Delinquency Prevention composed of the Attorney General, the Secretary of Health and Human Services, the Secretary of Labor, the Secretary of Education, the Secretary of Housing and Urban Development, the Director of the Office of Community Services, the Director of the Office of Drug Abuse Policy, the Director of the ACTION Agency,

the Director of the Bureau of Prisons, the Commissioner of the Bureau of Indian Affairs, the Director for the Office of Special Education and Rehabilitation Services, the Commissioner for the Administration for Children, Youth, and Families, and the Director of the Youth Development Bureau, or their respective designees, Assistant Attorney General who heads the Office of Justice Programs, Director of the Bureau of Justice Assistance, the Administrator of the Office of Juvenile Justice and Delinquency Prevention, the Director of the National Institute of Justice, and representatives of such other agencies as the President shall designate.

(2) Any individual designated under this section shall be selected from individuals who exercise significant decisionmaking authority in the Federal agency involved.

(b) The Attorney General shall serve as Chairman of the Council. The Administrator of the Office of Juvenile Justice and Delinquency Prevention shall serve as Vice Chairman of the Council. The Vice Chairman shall act as Chairman in the absence of the Chairman.

(c) The function of the Council shall be to coordinate all Federal juvenile delinquency programs and all Federal programs relating to missing and exploited children. The Council shall make recommendations to the President and to the Congress at least annually with respect to the coordination of overall policy and development of objectives and priorities for all Federal juvenile delinquency programs and activities. The Council shall review the programs and practices of Federal agencies and report on the degree to which Federal agency funds are used for purposes which are consistent or inconsistent with the mandates of paragraphs (12)(A), (13), and (14) of section 223(a) of this title. The Council shall review, and make recommendations with respect to, any joint funding proposal undertaken by the Office of Juvenile Justice and Delinquency Prevention and any agency represented on the Council. The Council shall review the reasons why Federal agencies take juveniles into custody and shall make recommendations regarding how to improve Federal practices and facilities for holding juveniles in custody.

(d) The Council shall meet at least quarterly.

(e) The Administrator shall, with the approval of the Council, appoint such personnel or staff support as the Administrator considers necessary to carry out the purposes of this title.

(f) Members of the Council who are employed by the Federal Government full time shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the Council.

(g) Of sums available to carry out this part, not more than $200,000 shall be available to carry out this section.

(42 U.S.C. 5616)

ANNUAL REPORT

SEC. 207. Not later than 180 days after the end of a fiscal year, the Administrator shall submit to the President, the Speaker of the House of Representatives, and the President pro tempore of the Senate a report that contains the following with respect to such fiscal year:

(1) A detailed summary and analysis of the most recent data available regarding the number of juveniles taken into custody, the rate at which juveniles are taken into custody, and the trends demonstrated by the data required by subparagraphs (A), (B), and (C). Such summary and analysis shall set out the information required by subparagraphs (A), (B), (C), and (D) separately for juvenile nonoffenders, juvenile status offenders, and other juvenile offenders. Such summary and analysis shall separately address with respect to each category of juveniles specified in the preceding sentence—

(A) the types of offenses with which the juveniles are charged;

(B) the race and gender of the juveniles;

(C) the ages of the juveniles;

(D) the types of facilities used to hold the juveniles in custody, including secure detention facilities, secure correctional facilities, jails, and lockups; and

(E) the number of juveniles who died while in custody and the circumstances under which they died.

(2) A description of the activities for which funds are expended under this part, including the objectives, priorities, accomplishments, and recommendations of the Council.

(3) A description, based on the most recent data available, of the extent to which each State complies with section 223 and with the plan submitted under such section by the State for such fiscal year.

(4) A summary of each program or activity for which assistance is provided under part C or D, an evaluation of the results of such program or activity, and a determination of the feasibility and advisability of replacing such program or activity in other locations.

(5) A description of selected exemplary delinquency prevention programs for which assistance is provided under this title, with particular attention to community-based juvenile delinquency prevention programs that involve and assist families of juveniles.

(42 U.S.C. 5617)

PART B—FEDERAL ASSISTANCE FOR STATE AND LOCAL PROGRAMS

AUTHORITY TO MAKE GRANTS AND CONTRACTS

SEC. 221. (a) The Administrator is authorized to make grants to States and units of general local government or combinations thereof to assist them in planning, establishing, operating, coordinating, and evaluating projects directly or through grants and contracts with public and private agencies for the development of more effective education, training, research, prevention, diversion, treatment, and rehabilitation programs in the area of juvenile delinquency and programs to improve the juvenile justice system.

(b)(1) With not to exceed 2 percent of the funds available in a fiscal year to carry out this part, the Administrator shall make grants to and enter into contracts with public and private agencies, organizations, and individuals to provide technical assistance to States, units of general local governments (and combinations there-

of), and local private agencies to facilitate compliance with section 223 and implementation of the State plan approved under section 223(c).

(2) Grants and contracts may be made under paragraph (1) only to public and private agencies, organizations, and individuals that have existence in providing such technical assistance. In providing such technical assistance, the recipient of a grant or contract under this subsection shall coordinate its activities with the State agency described in section 291(c)(1).

(42 U.S.C. 5631)

ALLOCATION

SEC. 222. (a)(1) Subject to paragraph (2) and in accordance with regulations promulgated under this part, funds shall be allocated annually among the States on the basis of relative population of people under age eighteen.

(2)(A) Subject to paragraph (3), if the aggregate amount appropriated for a fiscal year to carry out this title (other than part D) is less than $75,000,000, then the amount allotted to each State for such fiscal year shall be not less than $325,000, except that the amount allotted to the Virgin Islands of the United States, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands shall be not less than $75,000 each.

(B) Subject to paragraph (3), if the aggregate amount appropriated for a fiscal year to carry out this title (other than part D) equals or exceeds $75,000,000, then the amount allotted to each State for such fiscal year shall be not less than $400,000, except that the amount allotted to the Virgin Islands of the United States, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands shall be not less than $100,000 each.

(3) If, as a result of paragraph (2), the amount allotted to a State for a fiscal year would be less than the amount allotted to such State for fiscal year 1988, then the amounts allotted to satisfy the requirements of such paragraph shall be reduced pro rata to the extent necessary to allot to such State for the fiscal year the amount allotted to such State for fiscal year 1988.

(b) If any amount so allotted remains unobligated at the end of the fiscal year, such funds shall be reallocated in a manner equitable and consistent with the purpose of this part. Any amount so reallocated shall be in addition to the amounts already allotted and available to the State, the Virgin Islands, American Samoa, Guam, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands for the same period.

(c) In accordance with regulations promulgated under this part, a portion of any allotment to any State under this part shall be available to develop a State plan or for other pre-award activities associated with such State plan, and to pay that portion of the expenditures which are necessary for efficient administration, including monitoring and evaluation. Not more than 7½ per centum of the total annual allotment of such State shall be available for such purposes, except that any amount expended or obligated by such

State, or by units of general local government or any combination thereof, from amounts made available under this subsection shall be matched (in an amount equal to any such amount so expended or obligated) by such State, or by such units or combinations, from State or local funds, as the case may be. The State shall make available needed funds for planning and administration to units of general local government or combinations thereof within the State on an equitable basis.

(d) In accordance with regulations promulgated under this part, 5 per centum of the minimum annual allotment to any State under this part shall be available to assist the advisory group established under section 223(a)(3) of this Act.

(42 U.S.C. 5632)

STATE PLANS

SEC. 223. (a) In order to receive formula grants under this part, a State shall submit a plan for carrying out its purposes applicable to a 3-year period. Such plan shall be amended annually to include new programs, and the state shall submit annual performance reports to the Administrator which shall describe progress in implementing programs contained in the original plan, and shall describe the status of compliance with State plan requirements. In accordance with regulations which the Administrator shall prescribe, such plan shall—

(1) designate the State agency described in section 291(c)(1) as the sole agency for supervising the preparation and administration of the plan;

(2) contain satisfactory evidence that the state agency designated in accordance with paragraph (1) has or will have authority, by legislation if necessary, to implement such plan in conformity with this part;

(3) provide for an advisory group appointed by the chief executive of the State to carry out the functions specified in subparagraph (F), and to participate in the development and review of the State's juvenile justice plan prior to submission to the supervisory board for final action and (A) which shall consist of not less than 15 and not more than 33 persons who have training, experience, or special knowledge concerning the prevention and treatment of juvenile delinquency or the administration of juvenile justice, (B) which shall include locally elected officials, representation of units of local government, law enforcement and juvenile justice agencies such as law enforcement, correction or probation personnel, and juvenile or family court judges, and public agencies concerned with delinquency prevention or treatment such as welfare, social services, mental health, education, special education, or youth services departments, (C) which shall include (i) representatives of private organizations, including those with a special focus on maintaining and strengthening the family unit, those representing parents or parent groups, those concerned with delinquency prevention and treatment and with neglected or dependent children, and those concerned with the quality of juvenile justice, education, or social services for children; (ii) repre-

sentatives of organizations which utilize volunteers to work with delinquents or potential delinquents; (iii) representatives of community based delinquency prevention or treatment programs; (iv) representatives of business groups or businesses employing youth; (v) youth workers involved with alternative youth programs; and (vi) persons with special experience and competence in addressing the problems of the family, school violence and vandalism, and learning disabilities, (D) a majority of whose members (including the chairman) shall not be full-time employees of the Federal, State, or local government, (E) at least one-fifth of whose members shall be under the age of 24 at the time of appointment, and at least 3 of whose members shall have been or shall currently be under the jurisdiction of the juvenile justice system; and (F) which (i) shall, consistent with this title, advise the State agency designated under paragraph (1) and its supervisory board; (ii) shall submit to the Governor and the legislature at least annually recommendations with respect to matters related to its functions, including State compliance with the requirements of paragraphs (12), (13), and (14); (iii) shall have an opportunity for review and comment on all juvenile justice and delinquency prevention grant applications submitted to the State agency designated under paragraph (1), except that any such review and comment shall be made no later than 30 days after the submission of any such application to the advisory group; (iv) may be given a role in monitoring State compliance with the requirements of paragraphs (12), (13), and (14), in advising on State agency designated under paragraph (1) and local criminal justice advisory board composition, and in review of the progress and accomplishments of juvenile justice and delinquency prevention projects funded under the comprehensive State plan; and (v) shall contact and seek regular input from juveniles currently under the jurisdiction of the juvenile justice system;

(4) provide for the active consultation with and participation of units of general local government or combinations thereof in the development of a State plan which adequately takes into account the needs and requests of local governments, except that nothing in the plan requirements, or any regulations promulgated to carry out such requirements, shall be construed to prohibit or impede the State from making grants to, or entering into contracts with, local private agencies or the advisory group;

(5) unless the provisions of this paragraph are waived at the discretion of the Administrator for any State in which the services for delinquent or other youth are organized primarily on a statewide basis, provide that at least 66⅔ per centum of funds received by the State under section 222, other than funds made available to the state advisory group under section 222(d), shall be expended—

(A) through programs of units of general local government or combinations thereof, to the extent such programs are consistent with the State plan;

(B) through programs of local private agencies, to the extent such programs are consistent with the State plan,

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except that direct funding of any local private agency by a State shall be permitted only if such agency requests such funding after it has applied for and been denied funding by any unit of general local government or combination thereof; and

(C) to provide funds for programs of Indian tribes that perform law enforcement functions (as determined by the Secretary of the Interior) and that agree to attempt to comply with the requirements specified in paragraphs (12)(A), (13), and (14), applicable to the detention and confinement of juveniles, an amount that bears the same ratio to the aggregate amount to be expended through programs referred to in subparagraphs (A) and (B) as the population under 18 years of age in the geographical areas in which such tribes perform such functions bears to the State population under 18 years of age.

(6) provide that the chief executive officer of the unit of general local government shall assign responsibility for the preparation and administration of the local government's part of a State plan, or for the supervision of the preparation and administration of the local government's part of the State plan, to that agency within the local government's structure or to a regional planning agency (hereinafter in this part referred to as the "local agency") which can most effectively carry out the purposes of this part and shall provide for supervision of the programs funded under this part by that local agency;

(7) provide for an equitable distribution of the assistance received under section 222 within the State;

(8) provide for (A) an analysis of juvenile crime problems (including the joining of gangs that commit crimes) and juvenile justice and delinquency prevention needs within the relevant jurisdiction (including any geographical area in which an Indian tribe performs law enforcement functions), a description of the services to be provided, and a description of performance goals and priorities, including a specific statement of the manner in which programs are expected to meet the identified juvenile crime problems (including the joining of gangs that commit crimes) and juvenile justice and delinquency prevention needs of the jurisdiction; (B) an indication of the manner in which the programs relate to other similar State or local programs which are intended to address the same or similar problems; and (C) a plan for the concentration of State efforts which shall coordinate all State juvenile delinquency programs with respect to overall policy and development of objectives and priorities for all State juvenile delinquency programs and activities, including provision for regular meetings of State officials with responsibility in the area of juvenile justice and delinquency prevention;

(9) provide for the active consultation with and participation of private agencies in the development and execution of the State plan; and provide for coordination and maximum utilization of existing juvenile delinquency programs and other related programs, such as education, special education, health, and welfare within the State;

(10) provide that not less than 75 per centum of the funds available to such State under section 222, other than funds made available to the State advisory group under section 222(d), whether expended directly by the State, by the unit of general local government or combination thereof, or through grants and contracts with public or private agencies, shall be used for advanced techniques in developing, maintaining, and expanding programs and services designed to prevent juvenile delinquency, to divert juveniles from the juvenile justice system, to provide community-based alternatives to confinement in secure detention facilities and secure correctional facilities, to encourage a diversity of alternatives within the juvenile justice system, to establish and adopt juvenile justice standards, and to provide programs for juveniles, including those processed in the criminal justice system, who have committed serious crimes, particularly programs which are designed to improve sentencing procedures, provide resources necessary for informed dispositions, provide for effective rehabilitation, and facilitate the coordination of services between the juvenile justice and criminal justice systems. These advanced techniques include—

(A) community-based programs and services for the prevention and treatment of juvenile delinquency through the development of foster-care and shelter-care homes, group homes, halfway houses, homemaker and home health services, twenty-four hour intake screening, volunteer and crisis home programs, education, special education, day treatment, and home probation, and any other designated community-based diagnostic, treatment, or rehabilitative service;

(B) community-based programs and services to work with parents and other family members to maintain and strengthen the family unit so that the juvenile may be retained in his home;

(C) youth service bureaus and other community-based programs to divert youth from the juvenile court or to support, counsel, or provide work and recreational opportunities for delinquents and other youth to help prevent delinquency;

(D) projects designed to develop and implement programs stressing advocacy activities aimed at improving services for and protecting the rights of youth impacted by the juvenile justice system;

(E) educational programs or supportive services designed to encourage delinquent youth and other youth to remain in elementary and secondary schools or in alternative learning situations, including programs to counsel delinquent youth and other youth regarding the opportunities which education provides;

(F) expanded use of probation and recruitment and training of probation officers, other professional and paraprofessional personnel and volunteers to work effectively with youth and their families;

(G) youth initiated programs and outreach programs designed to assist youth who otherwise would not be reached by traditional youth assistance programs;

(H) statewide programs through the use of subsidies or other financial incentives to units of local government designed to—

(i) remove juveniles from jails and lockups for adults;

(ii) replicate juvenile programs designated as exemplary by the National Institute of Justice;

(iii) establish and adopt, based on the recommendations of the National Advisory Committee for Juvenile Justice and Delinquency Prevention made before the date of the enactment of the Juvenile Justice, Runaway Youth, and Missing Children's Act Amendments of 1984,[1] standards for the improvement of juvenile justice within the State;

(iv) increase the use of nonsecure community-based facilities and discourage the use of secure incarceration and detention; or

(v) involve parents and other family members in addressing the delinquency-related problems of juveniles;

(I) programs designed to develop and implement projects relating to juvenile delinquency and learning disabilities, including on-the-job training programs to assist law enforcement and juvenile justice personnel to more effectively recognize and provide for learning disabled and other handicapped juveniles;

(J) projects designed both to deter involvement in illegal activities and to promote involvement in lawful activities on the part of gangs whose membership is substantially composed of juveniles;

(K) programs and projects designed to provide for the treatment of juveniles' dependence on or abuse of alcohol or other addictive or nonaddictive drugs; and

(L) law-related education programs and projects designed to prevent juvenile delinquency;

(11) provide for the development of an adequate research, training, and evaluation capacity within the State;

(12)(A) provide within three years after submission of the initial plan that juveniles who are charged with or who have committed offenses that would not be criminal if committed by an adult or offenses which do not constitute violations of valid court orders, or such nonoffenders as dependent or neglected children, shall not be placed in secure detention facilities or secure correctional facilities; and

(B) provide that the State shall submit annual reports to the Administrator containing a review of the progress made by the State to achieve the deinstitutionalization of juveniles described in subparagraph (A) and a review of the progress made by the State to provide that such juveniles, if placed in facili-

[1] Division II of chapter VI of title II of Public Law 98-473 (98 Stat. 2107), approved October 12, 1984.

ties, are placed in facilities which (i) are the least restrictive alternatives appropriate to the needs of the child and the community; (ii) are in reasonable proximity to the family and the home communities of such juveniles; and (iii) provide the services described in section 103(1);

(13) provide that juveniles alleged to be or found to be delinquent and youths within the purview of paragraph (12) shall not be detained or confined in any institution in which they have regular contact with adult persons incarcerated because they have been convicted of a crime or are awaiting trial on criminal charges;

(14) provide that, beginning after the five-year period following December 8, 1980, no juvenile shall be detained or confined in any jail or lockup for adults, except that the Administrator shall, through 1993, promulgate regulations which make exceptions with regard to the detention of juveniles accused of non-status offenses who are awaiting an initial court appearance pursuant to an enforceable State law requiring such appearances within twenty-four hours after being taken into custody (excluding weekends and holidays) provided that such exceptions are limited to areas which—

(A) are outside a Standard Metropolitan Statistical Area,

(B) have no existing acceptable alternative placement available, and

(C) are in compliance with the provisions of paragraph (13);

(15) provide for an adequate system of monitoring jails, detention facilities, correctional facilities, and non-secure facilities to insure that the requirements of paragraph (12)(A), paragraph (13), and paragraph (14) are met, and for annual reporting of the results of such monitoring to the Administrator, except that such reporting requirements shall not apply in the case of a State which is in compliance with the other requirements of this paragraph, which is in compliance with the requirements in paragraph (12)(A) and paragraph (13), and which has enacted legislation which conforms to such requirements and which contains, in the opinion of the Administrator, sufficient enforcement mechanisms to ensure that such legislation will be administered effectively;

(16) provide assurance that assistance will be available on an equitable basis to deal with disadvantaged youth including, but not limited to, females, minority youth, and mentally retarded and emotionally or physically handicapped youth;

(17) provide assurance that consideration will be given to and that assistance will be available for approaches designed to strengthen and maintain the family units of delinquent and other youth to prevent juvenile delinquency. Such approaches should include the involvement of grandparents or other extended family members when possible and appropriate;

(18) provide for procedures to be established for protecting the rights of recipients of services and for assuring appropriate privacy with regard to records relating to such services provided to any individual under the State plan;

(19) provide that fair and equitable arrangements shall be made to protect the interests of employees affected by assistance under this Act and shall provide for the terms and conditions of such protective arrangements established pursuant to this section, and such protective arrangements shall, to the maximum extent feasible, include, without being limited to, such provisions as may be necessary for—

(A) the preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) under existing collective-bargaining agreements or otherwise;

(B) the continuation of collective-bargaining rights;

(C) the protection of individual employees against a worsening of their positions with respect to their employment;

(D) assurances of employment to employees of any State or political subdivision thereof who will be affected by any program funded in whole or in part under provisions of this Act; and

(E) training or retraining programs;

(20) provide for such fiscal control and fund accounting procedures necessary to assure prudent use, proper disbursement, and accurate accounting of funds received under this title;

(21) provide reasonable assurances that Federal funds made available under this part for any period will be so used as to supplement and increase (but not supplant) the level of the State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the programs described in this part, and will in no event replace such State, local, and other non-Federal funds;

(22) provide that the State agency designated under paragraph (1) will from time to time, but not less often than annually, review its plan and submit to the Administrator an analysis and evaluation of the effectiveness of the programs and activities carried out under the plan, and any modifications in the plan, including the survey of State and local needs, which it considers necessary;

(23) address efforts to reduce the proportion of juveniles detained or confined in secure detention facilities, secure correctional facilities, jails, and lockups who are members of minority groups if such proportion exceeds the proportion such groups represent in the general population; and

(24) contain such other terms and conditions as the Administrator may reasonably prescribe to assure the effectiveness of the programs assisted under this title.

(b) The State agency designated under subsection (a)(1), after receiving and considering the advice and recommendations of the advisory group referred to in subsection (a), shall approve the State plan and any modification thereof prior to submission to the Administrator.

(c)(1) The Administrator shall approve any State plan and any modification thereof that meets the requirements of this section. Failure to achieve compliance with the subsection (a)(12)(A) requirement within the three-year time limitation shall terminate

any State's eligibility for funding under this part unless the Administrator determines that the State is in substantial compliance with the requirement, through achievement of deinstitutionalization of not less than 75 per centum of such juveniles or through removal of 100 percent of such juveniles from secure correctional facilities, and has made, through appropriate executive or legislative action, an unequivocal commitment to achieving full compliance within a reasonable time not exceeding two additional years.

(2) Failure to achieve compliance with the requirements of subsection (a)(14) within the 5-year time limitation shall terminate any State's eligibility for funding under this part unless the Administrator—

(A) determines, in the discretion of the Administrator, that such State has—

(i)(I) removed not less than 75 percent of juveniles from jails and lockups for adults; or

(II) achieved substantial compliance with such subsection; and

(ii) made, through appropriate executive or legislative action, an unequivocal commitment to achieving full compliance within a reasonable time, not to exceed 3 additional years; or

(B) waives the termination of the State's eligibility on the condition that the State agrees to expend all of the funds to be received under this part by the State (excluding funds required to be expended to comply with subsections (c) and (d) of section 222 and with section 223(a)(5)(C)), only to achieve compliance with subsection (a)(14).

(3) Except as provided in paragraph (2), failure to achieve compliance with the requirements of subsection (a)(14) after December 8, 1985, shall terminate any State's eligibility for funding under this part unless the Administrator waives the termination of the State's eligibility on the condition that the State agrees to expend all of the funds to be received under this part by the State (excluding funds required to be expended to comply with subsections (c) and (d) of section 222 and with section 223(a)(5)(C)), only to achieve compliance with subsection (a)(14).

(4) For purposes of paragraph (2)(A)(i)(II), a State may demonstrate that it is in substantial compliance with such paragraph by showing that it has—

(A) removed all juvenile status offenders and nonoffenders from jails and lockups for adults;

(B) made meaningful progress in removing other juveniles from jails and lockups for adults;

(C) diligently carried out the State's plan to comply with subsection (a)(14); and

(D) historically expended, and continues to expend, to comply with subsection (a)(14) an appropriate and significant share of the funds received by the State under this part

(d) In the event that any State chooses not to submit a plan, fails to submit a plan, or submits a plan or any modification thereof, which the Administrator, after reasonable notice and opportunity for hearing, in accordance with sections 802, 803, and 804 of title I of the Omnibus Crime Control and Safe Streets Act of 1968,[1] deter-

mines does not meet the requirements of this section, the Administrator shall endeavor to make that State's allotment under the provisions of section 222(a) available to local public and private nonprofit agencies within such State for use in carrying out the purposes of subsection (a)(12)(A), subsection (a)(13), or subsection (a)(14). The Administrator shall make funds which remain available after disbursements are made by the Administrator under the preceding sentence, and any other unobligated funds, available on an equitable basis to those States that have achieved full compliance with the requirements under subsection (a)(12)(A) and subsection (a)(13) within the initial three years of participation or have achieved full compliance within a reasonable time thereafter as provided by subsection (c).

(42 U.S.C. 5633)

PART C—NATIONAL PROGRAMS

Subpart I—National Institute for Juvenile Justice and Delinquency Prevention

ESTABLISHMENT OF NATIONAL INSTITUTE FOR JUVENILE JUSTICE AND DELINQUENCY PREVENTION

SEC. 241. (a) There is hereby established within the Juvenile Justice and Delinquency Prevention Office a National Institute for Juvenile Justice and Delinquency Prevention.

(b) The National Institute for Juvenile Justice and Delinquency Prevention shall be under the supervision and direction of the Administrator.

(c) The activities of the National Institute for Juvenile Justice and Delinquency Prevention shall be coordinated with the activities of the National Institute of Justice in accordance with the requirements of section 201(b).

(d) It shall be the purpose of the Institute to provide—

(1) a coordinating center for the collection, preparation, and dissemination of useful data regarding the prevention, treatment, and control of juvenile delinquency; and

(2) appropriate training (including training designed to strengthen and maintain the family unit) for representatives of Federal, State, local law enforcement officers, teachers and special education personnel, family counselors, child welfare workers, juvenile judges and judicial personnel, probation personnel, correctional personnel (including volunteer lay personnel), persons associated with law-related education, youth workers, and representatives of private agencies and organizations with specific experience in the prevention, treatment, and control of juvenile delinquency.

(e) In addition to the other powers, express and implied, the Institute may—

(1) request any Federal agency to supply such statistics, data, program reports, and other material as the Institute deems necessary to carry out its functions;

(2) arrange with and reimburse the heads of Federal agencies for the use of personnel or facilities or equipment of such agencies;

(3) confer with and avail itself of the cooperation, services, records, and facilities of State, municipal, or other public or private local agencies;

(4) make grants and enter into contracts with public or private agencies, organizations, or individuals for the partial performance of any functions of the Institute;

(5) compensate consultants and members of technical advisory councils who are not in the regular full-time employ of the United States, at a rate now or hereafter prescribed for GS–18 of the General Schedule by section 5332 of title 5 of the United States Code and while away from home, or regular place of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code for persons in the Government service employed intermittently; and

(6) assist through training, the advisory groups established pursuant to section 223(a)(3) or comparable public or private citizen groups in nonparticipating States in the accomplishment of their objectives consistent with this Act.

(f)(1) The Administrator, acting through the Institute, shall provide technical and financial assistance to an eligible organization composed of member representatives of the State advisory groups appointed under section 223(a)(3) to assist such organization to carry out the functions specified in paragraph (2).

(2) To be eligible to receive such assistance, such organization shall agree to carry out activities that include—

(A) conducting an annual conference of such member representatives for purposes relating to the activities of such State advisory groups;

(B) disseminating information, data, standards, advanced techniques, and program models developed through the Institute and through programs funded under section 261;

(C) reviewing Federal policies regarding juvenile justice and delinquency prevention;

(D) advising the Administrator with respect to particular functions or aspects of the work of the Office; and

(E) advising the President and Congress with regard to State perspectives on the operation of the Office and Federal legislation pertaining to juvenile justice and delinquency prevention.

(g) Any Federal agency which receives a request from the Institute under subsection (e)(1) may cooperate with the Institute and shall, to the maximum extent practicable, consult with and furnish information and advice to the Institute.

(42 U.S.C. 5651)

INFORMATION FUNCTION

SEC. 242. The Administrator, acting through the National Institute for Juvenile Justice and Delinquency Prevention, shall—

(1) on a continuing basis, review reports, data, and standards relating to the juvenile justice system in the United States;

(2) serve as an information bank by collecting systematically and synthesizing the data and knowledge obtained from studies and research by public and private agencies, institutions, or

individuals concerning all aspects of juvenile delinquency, including the prevention and treatment of juvenile delinquency; and

(3) serve as a clearinghouse and information center for the preparation, publication, and dissemination of all information regarding juvenile delinquency, including State and local juvenile delinquency prevention and treatment programs and plans, availability of resources, training and educational programs, statistics, and other pertinent data and information.

(42 U.S.C. 5652)

RESEARCH, DEMONSTRATION, AND EVALUATION FUNCTIONS

SEC. 243. The Administrator, acting through the National Institute for Juvenile Justice and Delinquency Prevention, is authorized to—

(1) conduct, encourage, and coordinate reseach and evaluation into any aspect of juvenile delinquency, particularly with regard to new programs and methods which seek to strengthen and maintain the family unit or which show promise of making a contribution toward the prevention and treatment of juvenile delinquency;

(2) encourage the development of demonstration projects in new, innovative techniques and methods to prevent and treat juvenile delinquency;

(3) provide for the evaluation of all juvenile delinquency programs assisted under this title in order to determine the results and the effectiveness of such programs;

(4) provide for the evaluation of any other Federal, State, or local juvenile delinquency program;

(5) prepare, in cooperation with educational institutions, with Federal, State, and local agencies, and with appropriate individuals and private agencies, such studies as it considers to be necessary with respect to the prevention and treatment of juvenile delinquency and the improvement of the juvenile justice system, including—

(A) recommendations designed to promote effective prevention and treatment, particularly by strengthening and maintaining the family unit;

(B) assessments regarding the role of family violence, sexual abuse or exploitation, media violence, the improper handling of youth placed in one State by another State, the effectiveness of family-centered treatment programs, special education, remedial education, and recreation, and the extent to which youth in the juvenile system are treated differently on the basis of sex, race, or family income and the ramifications of such treatment;

(C) examinations of the treatment of juveniles processed in the criminal justice system; and

(D) recommendations as to effective means for deterring involvement in illegal activities or promoting involvement in lawful activities on the part of gangs whose membership is substantially composed of juveniles;

(6) disseminate the results of such evaluations and research and demonstration activities particularly to persons actively working in the field of juvenile delinquency;

(7) disseminate pertinent data and studies to individuals, agencies, and organizations concerned with the prevention and treatment of juvenile delinquency;

(8) develop and support model State legislation consistent with the mandates of this title and the standards developed by the National Advisory Committee for Juvenile Justice and Delinquency Prevention before the date of the enactment of the Juvenile Justice, Runaway Youth, and Missing Children's Act Amendments of 1984; and

(9) support research relating to reducing the excessive proportion of juveniles detained or confined in secure detention facilities, secure correctional facilities, jails, and lockups who are members of minority groups.

(42 U.S.C. 5653)

TECHNICAL ASSISTANCE AND TRAINING FUNCTIONS

SEC. 244. The Administrator, acting through the National Institute for Juvenile Justice and Delinquency Prevention is authorized to—

(1) provide technical assistance and training assistance to Federal, State, and local governments and to courts, public and private agencies, institutions, and individuals in the planning, establishment, funding, operation, and evaluation of juvenile delinquency programs;

(2) develop, conduct, and provide for training programs for the training of professional, paraprofessional, and volunteer personnel, and other persons who are working with or preparing to work with juveniles, juvenile offenders, and their families;

(3) develop, conduct, and provide for seminars, workshops, and training programs in the latest proven effective techniques and methods of preventing and treating juvenile delinquency for law enforcement officers, juvenile judges, and other court personnel, probation officers, correctional personnel, and other Federal, State, and local government personnel who are engaged in work relating to juvenile delinquency; and

(4) develop technical training teams to aid in the development of training programs in the States and to assist State and local agencies which work directly with juveniles and juvenile offenders.

(42 U.S.C. 5654)

ESTABLISHMENT OF TRAINING PROGRAM

SEC. 245. (a) The Administrator shall establish within the Institute a training program designed to train enrollees with respect to methods and techniques for the prevention and treatment of juvenile delinquency. In carrying out this program the Administrator is authorized to make use of available State and local services, equipment, personnel, facilities, and the like.

(b) Enrollees in the training program established under this section shall be drawn from law enforcement and correctional personnel (including volunteer lay personnel), teachers and special education personnel, family counselors, child welfare workers, juvenile judges and judicial personnel, persons associated with law-related education, youth workers, and representatives of private agencies and organizations with specific experience in the prevention and treatment of juvenile delinquency.

(42 U.S.C. 5659) Formerly section 248. Redesignated by sec. 637 of Public Law 98–473 (98 Stat. 2120).

CURRICULUM FOR TRAINING PROGRAM

SEC. 246. The Administrator shall design and supervise a curriculum for the training program established by section 245 which shall utilize an interdisciplinary approach with respect to the prevention of juvenile delinquency, the treatment of juvenile delinquents, and the diversion of youths from the juvenile justice system. Such curriculum shall be appropriate to the needs of the enrollees of the training program.

(42 U.S.C. 5660)

PARTICIPATION IN TRAINING PROGRAM AND STATE ADVISORY GROUP CONFERENCES

SEC. 247. (a) Any person seeking to enroll in the training program established under section 245 shall transmit an application to the Administrator, in such form and according to such procedures as the Administrator may prescribe.

(b) The Administrator shall make the final determination with respect to the admittance of any person to the training program. The Administrator, in making such determination, shall seek to assure that persons admitted to the training program are broadly representative of the categories described in section 245(b).

(c) While participating as a trainee in the program established under section 245 or while participating in any conference held under section 241(f), and while traveling in connection with such participation, each person so participating shall be allowed travel expenses, including a per diem allowance in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed travel expenses under section 5703 of title 5, United States Code. No consultation fee may be paid to such person for such participation.

(42 U.S.C. 5661)

SPECIAL STUDIES AND REPORTS

SEC. 248. (a) Not later than 1 year afte the date of the enactment of the Juvenile Justice and Delinquency Prevention Amendments of 1988, the Administrator shall begin to conduct a study with respect to the juvenile justice system—

(1) to review—

(A) conditions in detention and correctional facilities for juveniles; and

(B) the extent to which such facilities meet recognized national professional standards; and

(2) to make recommendations to improve conditions in such facilities.

(b)(1) Not later than 1 year after the date of the enactment of the Juvenile Justice and Delinquency Prevention Amendments of 1988, the Administrator shall begin to conduct a study to determine—

(A) how juveniles who are American Indians and Alaskan Natives and who are accused of committing offenses on and near Indian reservations and Alaskan Native villages, respectively, are treated under the systems of justice administered by Indian tribes and Alaskan Native organizations, respectively, that perform law enforcement functions;

(B) the amount of financial resources (including financial assistance provided by governmental entities) available to Indian tribes and Alaskan Native organizations that perform law enforcement functions, to support community-based alternatives to incarcerating juveniles; and

(C) the extent to which such tribes and organizations comply with the requirements specified in paragraphs (12)(A), (13), and (14) of section 223(a), applicable to the detention and confinement of juveniles.

(2)(A) For purposes of section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b)), any contact, subcontract, grant, or subgrant made under paragraph (1) shall be deemed to be a contract, subcontract, grant, or subgrant made for the benefit of Indians.

(B) For purposes of section 7(b) of such Act and subparagraph (A) of this paragraph, references to Indians and Indian organizations shall be deemed to include Alaskan Natives and Alaskan Native organizations, respectively.

(c) Not later than 3 years after the date of the enactment of the Juvenile Justice and Delinquency Prevention Amendments of 1988, the Administrator shall submit a report to the chairman of the Committee on Education and Labor of the House of Representatives and the chairman of the Committee on the Judiciary of the Senate containing a description, and a summary of the results, of the study conducted under subsection (a) or (b), as the case may be.

(42 U.S.C. 5662)

Subpart II—Special Emphasis Prevention and Treatment Programs

AUTHORITY TO MAKE GRANTS AND CONTRACTS

SEC. 261. (a) The Administrator shall, by making grants to and entering into contracts with public and private nonprofit agencies, organizations, institutions, and individuals provide for each of the following during each fiscal year:

(1) Establishing or maintaining community-based alternatives to traditional forms of institutionalization of juvenile offenders.

(2) Establishing or implementing effective means of diverting juveniles from the traditional juvenile justice and correctional system, including restitution and reconciliation projects which test and validate selected arbitration models, such as neighborhood courts or panels, and increase victim satisfaction while

providing alternatives to incarceration for detained or adjudicated delinquents.

(3) Establishing or supporting programs stressing advocacy activities aimed at improving services to juveniles impacted by the juvenile justice system, including services which encourage the improvmeent of due process available to juveniles in the juvenile justice system, which improve the quality of legal representation of such juveniles, and which provide for the appointment of special advocates by courts for such juveniles.

(4) Developing or supporting model programs to strengthen and maintain the family unit in order to prevent or treat juvenile delinquency.

(5) Establishing or implementing special emphasis prevention and treatment programs relating to juveniles who commit serious crimes (including such crimes committeed in schools), including programs designed to deter involvement in illegal activities or to promote involvement in lawful activities on the part of gangs whose membership is substantially composed of juveniles.

(6) Developing or implementing further a coordinated, national law-related education program of—

(A) delinquency prevention in elementary and secondary schools, and other local sites;

(B) training for persons responsible for the implementation of law-related education programs; and

(C) disseminating information regarding model, innovative, law-related education programs to juvenile delinquency programs, including those that are community based, and to law enforcement and criminal justice agencies for activities related to juveniles.

(7) Addressing efforts to reduce the proportion of juveniles detained or confined in secure detention facilities, secure correctional factilities, jails, and lockups who are members of minority groups if such proportion exceeds the proportion such groups represent in the general population.

(b) The Adminstrator is authorized, by making grants to and entering into contracts with public and private nonprofit agencies, organizations, institutions, and individuals, to develop and implement new approaches, techniques, and methods designed to—

(1) improve the capability of public and private agencies and organizations to provide services for delinquents and other juveniles to help prevent juvenile delinquency;

(2) develop and implement, in coordination with the Secretary of Education, model programs and methods to keep students in elementary and secondary schools, to prevent unwarranted and arbitrary suspensions and expulsions, and to encourage new approaches and techniques with respect to the prevention of school violence and vandalism;

(3) develop, implement, and support, in conjuction with the Secretary of Labor, other public and private agencies, organizations, business, and industry, programs for the employment of juveniles;

(4) develop and support programs designed to encourage and assist State legislatures to consider and establish policies con-

sistent with this title, both by amending State laws, if necessary, and devoting greater resources to effectuate such policies;

(5) develop and implement programs relating to juvenile delinquency and learning disabilities, including on-the-job training programs to assist law enforcement personnel and juvenile justice personnel to more effectively recognize and provide for learning-disabled and other handicapped juveniles;

(6) develop statewide programs through the use of subsidies or other financial incentives designed to—

(A) remove juveniles from jails and lockups for adults;

(B) replicate juvenile programs designated as exemplary by the National Institute of Justice; or

(C) establish and adopt, based upon the recommendations of the National Advisory Committee for Juvenile Justice and Delinquency Prevention made before the date of the enactment of the Juvenile Justice, Runaway Youth, and Missing Children's Act Amendments of 1984, standards for the improvement of juvenile justice within each State involved; and

(7) develop and implement programs, relating to the special education needs of delinquent and other juveniles, which develop locally coordinated policies and programs among education, juvenile justice, and social service agencies.

(c) Not less than 30 percent of the funds available for grants and contracts under this section shall be available for grants to and contracts with private nonprofit agencies, organizations, and institutions which have experience in dealing with juveniles.

(d) Assistance provided under this section shall be available on an equitable basis to deal with female, minority, and disadvantaged juveniles, including juveniles who are mentally, emotionally, or physically handicapped.

(e) Not less than 5 percent of the funds available for grants and contracts under this section shall be available for grants and contracts designed to address the special needs and problems of juvenile delinquency in the Virgin Islands of the United States, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

(42 U.S.C. 5665)

CONSIDERATIONS FOR APPROVAL OF APPLICATIONS

SEC. 262. (a) Any agency, institution, or individual desiring to receive a grant, or enter into a contract, under this part shall submit an application at such time, in such manner, and containing or accompanied by such information as the Administrator may prescribe.

(b) In accordance with guidelines established by the Administrator, each application for assistance under this part shall—

(1) set forth a program for carrying out one or more of the purposes set forth in this part and specifically identify each such purpose such program is designed to carry out;

(2) provide that such program shall be administered by or under the supervision of the applicant;

(3) provide for the proper and efficient administration of such program;

(4) provide for regular evaluation of such program;

(5) certify that the applicant has requested the State planning agency and local agency designated in section 223, if any to review and comment on such application and indicate the responses of such State planning agency and local agency to such request;

(6) attach a copy of the responses of such State planning agency and local agency to such request;

(7) provide that regular reports on such program shall be sent to the Administrator and to such State planning agency and local agency; and

(8) provide for such fiscal control and fund accounting procedures as may be necessary to ensure prudent use, proper disbursement, and accurate accounting of funds received under this title.

(c) In determining whether or not to approve applications for grants and for contracts under this part, the Administrator shall consider—

(1) the relative cost and effectivenes of the proposed program in carrying out this part;

(2) the extent to which such program will incorporate new or innovative techniques;

(3) if a State plan has been approved by the Administrator under section 223(c), the extent to which such program meets the objectives and priorities of the State plan, taking into consideration the location and scope of such program;

(4) the increase in capacity of the public and private agency, institution, or individual involved to provide services to address juvenile delinquency and juvenile delinquency prevention;

(5) the extent to which such program serves communities which have high rates of juvenile unemployment, school dropout, and delinquency; and

(6) the adverse impact that may result from the restriction of eligibility, based upon population, for cities with a population greater than 40,000 located within States which have no city with a population over 250,000.

(d)(1)(A) Programs selected for assistance through grants or contracts under this part (other than section 241(f)) shall be selected through a competitive process to be established by rule by the Administrator. As part of such a process, the Administrator shall announce in the Federal Register—

(i) the availability of funds for such assistance;

(ii) the general criteria applicable to the selection of applicants to receive such assistance; and

(iii) a description of the procedures applicable to submitting and reviewing applications for such assistance.

(B) The competitive process described in subparagraph (A) shall not be required if the Administrator makes a written determination that—

(i)(I) the proposed program is not within the scope of any announcement issued, or expected to be issued, by the Adminis-

trator regarding the availability of funds to carry out programs under this part, but can be supported by a grant or contract in accordance with this part; and

(II) such program is of such outstanding merit, as determined through peer review conducted under paragraph (2), that the award of a grant or contract without competition is justified; or

(ii) the applicant is uniquely qualified to provide proposed training services as provided in section 244 and other qualified sources are not capable of providing such services, and includes in such determination the factual and other bases thereof.

(C) If a program is selected for assistance without competition pursuant to the exception provided in subparagraph (B), the Administrator shall promptly so notify the chairman of the Committee on Education and Labor of the House of Representatives and the chairman of the Committee on the Judiciary of the Senate. Such notification shall include copies of the Administrator's determination made under such subparagraph and the peer review determination required by paragraph (2).

(2)(A) Programs selected for assistance through grants or contracts under this part (other than section 241(f)) shall be reviewed before selection, and thereafter as appropriate, through a formal peer review process utilizing experts (other than officers and employees of the Department of Justice) in fields related to the subject matter of the proposed program.

(B) Such process shall be established by the Administrator in consultation with the Directors and other appropriate officials of the National Science Foundation and the National Institute of Mental Health. Before implementation of such process, the Administrator shall submit such process to such Directors, each of whom shall prepare and furnish to the chairman of the Committee on Education and Labor of the House of Representatives and the chairman of the Committee on the Judiciary of the Senate a final report containing their comments on such process as proposed to be established.

(3) The Administrator, in establishing the process required under paragaphs (1) and (2), shall provide for emergency expedited consideration of the proposed programs if necessary to avoid any delay which would preclude carrying out such programs.

(e) A city shall not be denied assistance under this part solely on the basis of its population.

(f) Notification of grants and contracts made under this part (and the applications submitted for such grants and contracts) shall, upon being made, be transmitted by the Administrator, to the chairman of the Committee on Education and Labor of the House of Representatives and the chairman of the Committee on the Judiciary of the Senate.

(42 U.S.C. 5665a)

PART D—PREVENTION AND TREATMENT PROGRAMS RELATING TO JUVENILE GANGS AND DRUG ABUSE AND DRUG TRAFFICKING

AUTHORITY TO MAKE GRANTS AND CONTRACTS

Sec. 281. The Administrator shall, by making grants to and entering into contracts with public and private nonprofit agencies, organizations, institutions, and individuals, establish and support programs and activities that involve families and communities and that are designed to carry out any of the following purposes:

(1) To reduce the participation of juveniles in drug-related crimes (including drug trafficking and drug use), particularly in elementary and secondary schools.

(2) To develop within the juvenile adjudicatory and correctional systems new and innovative means to address the problems of juveniles convicted of serious drug-related and gang-related offenses.

(3) To reduce juvenile involvement in gang-related activity, particularly activities that involve the distribution of drugs by or to juveniles.

(4) To promote the involvement of juveniles in lawful activities in geographical areas in which gangs commit crimes.

(5) To provide treatment to juveniles who are members of such gangs, including members who are accused of committing a serious crime and members who have been adjudicated as being delinquent.

(6) To support activities to inform juveniles of the availability of treatment and services for which financial assistance is provided under this part.

(7) To facilitate Federal and State cooperation with local school officials to assist juveniles who are likely to participate in the activities of gangs that commit crimes and to establish and support programs that facilitate coordination and cooperation among local education, juvenile justice, employment, and social service agencies, for the purpose of preventing or reducing the participation of juveniles in activities of gangs that commit crimes.

(8) To provide personnel, personnel training, equipment, and supplies in conjunction with programs and activities designed to prevent or reduce the participation of juveniles in unlawful gang activities or unlawful drug activities, to assist in improving the adjudicative and correctional components of the juvenile justice system.

(9) To provide pre- and post-trial drug abuse treatment to juveniles in the juvenile justice system.

(10) To provide drug abuse education, prevention and treatment involving police and juvenile justice officials in demand reduction programs.

(42 U.S.C. 5667)

APPROVAL OF APPLICATIONS

Sec. 282. (a) Any agency, institution, or individual desiring to receive a grant, or to enter into a contract, under this part shall submit an application at such time, in such manner, and contain-

ing or accompanied by such information as the Administrator may prescribe.

(b) In accordance with guidelines established by the Administrator, each application for assistance under this part shall—

(1) set forth a program or activity for carrying out one or more of the purposes specified in section 281 and specifically identify each such purpose, such program or activity is designed to carry out;

(2) provide that such program or activity shall be administered by or under the supervision of the applicant;

(3) provide for the proper and efficient administration of such program or activity;

(4) provide for regular evaluation of such program or activity;

(5) certify that the applicant has requested the State planning agency and local agency designated in section 223, if any, to review and comment on such application and indicate the responses of such State planning agency and local agency to such request;

(6) attach a copy of the responses of such State planning agency and local agency to such request;

(7) provide that regular reports on such program or activity shall be sent to the Administrator and to such State planning agency and local agency; and

(8) provide for such fiscal control and fund accounting procedures as may be necessary to ensure prudent use, proper disbursement, and accurate accounting of funds received under this title.

(c) In reviewing applications for grants and contracts under this part, the Administrator shall give priority to applications—

(1) based on the incidence and severity of crimes committed by gangs whose membership is composed primarily of juveniles or the incidence of juvenile drug abuse and drug trafficking, in the geographical area in which the applicants propose to carry out the programs and activities for which such grants and contracts are requested; and

(2) for assistance for programs and activities that have the broad support of organizations operating in such geographical areas, as demonstrated by the applicants.

(42 U.S.C. 5667a)

PART E—GENERAL AND ADMINISTRATIVE PROVISIONS

AUTHORIZATION OF APPROPRIATIONS

SEC. 291. (a)(1) To carry out the purposes of this title (other than part D) there are authorized to be appropriated such sums as may be necessary for fiscal years 1989, 1990, 1991, and 1992. Funds appropriated for any fiscal year may remain available for obligation until expended.

(2)(A) Subject to subparagraph (B), to carry out part D, there are authorized to be appropriated $15,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, and 1992.

(B) No funds may be appropriated to carry out part D of this title for a fiscal year unless the aggregate amount appropriated to carry out this title (other than part D) for such fiscal year is not less than the aggregate amount appropriated to carry out this title (other than part D) for the preceding fiscal year.

(b) Of such sums as are appropriated to carry out the purposes of this title (other than part D)—

(1) not to exceed 5 percent shall be available to carry out part A;

(2) not less than 70 percent shall be available to carry out part B; and

(3) 25 percent shall be available to carry out part C.

(c) Notwithstanding any other provision of law, the Administrator shall—

(1) establish appropriate administrative and supervisory board membership requirements for a State agency responsible for supervising the preparation and administration of the State plan submitted under section 223 and permit the State advisory group appointed under section 223(a)(3) to operate as the supervisory board for such agency, at the discretion of the Governor; and

(2) approve any appropriate State agency designated by the Governor of the State involved in accordance with paragraph (1).

(d) No funds appropriated to carry out the purposes of this title may be used for any bio-medical or behavior control experimentation on individuals or any research involving such experimentation. For the purpose of this subsection, the term "behavior control" refers to experimentation or research employing methods which involve a substantial risk of physical or psychological harm to the individual subject and which are intended to modify or alter criminal and other anti-social behavior, including aversive conditioning therapy, drug therapy or chemotherapy (except as part of routine clinical care), physical therapy of mental disorders, electroconvulsive therapy, or physical punishment. The term does not apply to a limited class of programs generally recognized as involving no such risk, including methadone maintenance and certain alcohol treatment programs, psychological counseling, parent training, behavior contracting, survival skills training, restitution, or community service, if safeguards are established for the informed consent of subjects (including parents or guardians of minors).

(42 U.S.C. 5671)

ADMINISTRATIVE AUTHORITY

SEC. 292. (a) The Office shall be administered by the Administrator under the general authority of the Attorney General.

(b) Sections 809(c), 811(a), 811(b), 811(c), 812(a), 812(b), and 812(d) of the Omnibus Crime Control and Safe Streets Act of 1968,[1] as so designated by the operation of the amendments made by the Justice Assistance Act of 1984,[2] shall apply with respect to the admin-

[1] (42 U.S.C. 3789 et seq.).

[2] Division II of chapter VI of title II of Public Law 98-473 (98 Stat. 2107), approved October 12, 1984.

istration of and compliance with this Act, except that for purposes of this Act—

(1) any reference to the Office of Justice Programs in such sections shall be deemed to be a reference to the Assistant Attorney General who heads the Office of Justice Programs; and

(2) the term "this title" as it appears in such sections shall be deemed to be a reference to this Act.

(c) Sections 801(a), 801(c), and 806 of the Omnibus Crime Control and Safe Streets Act of 1968,[3] as so designated by the operation of the amendments made by the Justice Assistance Act of 1984,[4] shall apply with respect to the administration of and compliance with this Act, except that for purposes of this Act—

(1) any reference to the Attorney General, the Assistant Attorney General who heads the Office of Justice Programs, the Director of the National Institute of Justice, the Director of the Bureau of Justice Statistics, or the Director of the Bureau of Justice Assistance shall be deemed to be a reference to the Administrator;

(2) any reference to the Office of Justice Programs, the Bureau of Justice Assistance, the National Institute of Justice, or the Bureau of Justice Statistics shall be deemed to be a reference to the Office of Juvenile Justice and Delinquency Prevention; and

(3) the term "this title" as it appears in such sections shall be deemed to be a reference to this Act.

(d) The Administrator is authorized, after appropriate consultation with representatives of States and units of local government, to establish such rules, regulations, and procedures as are necessary for the exercise of the functions of the Office and as are consistent with the purpose of this Act.

(42 U.S.C. 5672)

WITHHOLDING

SEC. 293. Whenever the Administrator, after giving reasonable notice and opportunity for hearing to a recipient of financial assistance under this title, finds that—

(1) the program or activity for which the grant or contract involved was made has been so changed that it no longer complies with this title; or

(2) in the operation of such program or activity there is failure to comply substantially with any provision of this title;

the Administrator shall initiate such proceedings as are appropriate.

(42 U.S.C. 5673)

USE OF FUNDS

SEC. 294. (a) Funds paid pursuant to this title to any public or private agency, organization, or institution, or to any individual (either directly or through a State planning agency) may be used for—

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[3] (42 U.S.C. 3782 et seq.).

[4] See note 2 above.

(1) planning, developing, or operating the program designed to carry out this title; and

(2) not more than 50 per centum of the cost of the construction of any innovative community-based facility for fewer than 20 persons which, in the judgment of the Administrator, is necessary to carry out this title.

(b) Except as provided in subsection (a), no funds paid to any public or private agency, or institution or to any individual under this title (either directly or through a State agency or local agency) may be used for construction.

(c)(1) Funds paid pursuant to section 223(a)(10)(D) and section 261(a)(3) to any public or private agency, organization, or institution or to any individual shall not be used to pay for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or other device intended or designed to influence a Member of Congress or any other Federal, State, or local elected official to favor or oppose any Acts, bills, resolutions, or similar legislation, or any referendum, initiative, constitutional amendment, or any similar procedure of the Congress, any State legislature, any local council, or any similar governing body, except that this paragraph shall not preclude such funds from being used in connection with communications to Federal, State, or local elected officials, upon the request of such officials through proper official channels, pertaining to authorization, appropriation, or oversight measures directly affecting the operation of the program involved.

(2) The Administrator shall take such action as may be necessary to ensure that no funds paid under section 223(a)(10)(D) or section 261(a)(3) are used either directly or indirectly in any manner prohibited in this paragraph.

(42 U.S.C. 5674)

PAYMENTS

SEC. 295. (a) Payments under this title, pursuant to a grant or contract, may be made (after necessary adjustment, in the case of grants, on account of previously made overpayments or underpayments) in advance or by way of reimbursement, in such installments and on such conditions as the Administrator may determine.

(b) Except as provided in the second sentence of section 222(c), financial assistance extended under this title shall be 100 per centum of the approved costs of the program or activity involved.

(c)(1) In the case of a grant under this title to an Indian tribe, if the Administrator determines that the tribe does not have sufficient funds available to meet the local share of the cost of any program or activity to be funded under the grant, the Administrator may increase the Federal share of the cost thereof to the extent the Administrator deems necessary.

(2) If a State does not have an adequate forum to enforce grant provisions imposing any liability on Indian tribes, the Administrator may waive State liability attributable to the liability of such tribes and may pursue such legal remedies as are necessary.

(d) If the Administrator determines, on the basis of information available to the Administrator during any fiscal year, that a por-

tion of the funds granted to an applicant under part C for such fiscal year will not be required by the applicant or will become available by virtue of the application of the provisions of section 802 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended from time to time, that portion shall be available for reallocation in an equitable manner to States which comply with the requirements in paragraphs (12)(A) and (13) of section 223(a), under section 261(b)(6).

(42 U.S.C. 5675)

CONFIDENTIALITY OF PROGRAM RECORDS

SEC. 296. Except as authorized by law, program records containing the identity of individual juveniles gathered for purposes pursuant to this title may not be disclosed without the consent of the service recipient or legally authorized representative, or as may be necessary to carry out this title. Under no circumstances may program reports or findings available for public dissemination contain the actual names of individual service recipients.

(42 U.S.C. 5676)

TITLE III—RUNAWAY AND HOMELESS YOUTH

SHORT TITLE

SEC. 301. This title may be cited as the "Runaway and Homeless Youth Act".

(42 U.S.C. 5701 note)

FINDINGS

SEC. 302. The Congress hereby finds that—

(1) the number of juveniles who leave and remain away from home without parental permission has increased to alarming proportions, creating a substantial law enforcement problem for the communities inundated, and significantly endangering the young people who are without resources and live on the street;

(2) the exact nature of the problem is not well defined because national statistics on the size and profile of the runaway youth population are not tabulated;

(3) many such young people, because of their age and situation, are urgently in need of temporary shelter and counseling services;

(4) the problem of locating, detaining, and returning runaway children should not be the responsibility of already overburdened police departments and juvenile justice authorities; and

(5) in view of the interstate nature of the problem, it is the responsibility of the Federal Government to develop accurate reporting of the problem nationally and to develop an effective system of temporary care outside the law enforcement structure.

(42 U.S.C. 5701)

RULES

SEC. 303. The Secretary of Health and Human Services (hereinafter in this title referred to as the "Secretary") may issue such rules as the Secretary considers necessary or appropriate to carry out the purposes of this title.

(42 U.S.C. 5702)

PART A—RUNAWAY AND HOMELESS YOUTH GRANT PROGRAM

AUTHORITY TO MAKE GRANTS

SEC. 311. (a) The Secretary shall make grants to public and private entities (and combinations of such entities) to establish and operate (including renovation) local runaway and homeless youth centers to provide services to deal primarily with the immediate needs of runaway or otherwise homeless youth, and their families, in a manner which is outside the law enforcement structure and the juvenile justice system.

(b)(1) Subject to paragraph (2) and in accordance with regulations promulgated under this title, funds for grants under subsection (a) shall be allotted annually with respect to the States on the basis of their relative population of individuals who are less than 18 years of age.

(2) Subject to paragraph (3), the amount allotted under paragraph (1) with respect to each State for a fiscal year shall be not less than $75,000, except that the amount allotted to the Virgin Islands of the United States, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands shall be not less than $30,000 each.

(3) If, as a result of paragraph (2), the amount allotted under paragraph (1) with respect to a State for a fiscal year would be less than the aggregate amount of grants made under this part to recipients in such State for fiscal year 1988, then the amounts allotted to satisfy the requirements of such paragraph shall be reduced pro rata to the extent necessary to allot under paragraph (1) with respect to such State for the fiscal year an amount equal to the aggregate amount of grants made under this part to recipients in such State for fiscal year 1988.

(4) In selecting among applicants for grants under subsection (a), the Secretary shall give priority to private entities that have experience in providing the services described in such subsection.

(c) The Secretary is authorized to provide on-the-job training to local runaway and homeless youth center personnel and coordinated networks of local law enforcement, social service, and welfare personnel to assist such personnel in recognizing and providing for learning disabled and other handicapped juveniles.

(42 U.S.C. 5711)

ELIGIBILITY

SEC. 312. (a) To be eligible for assistance under section 311(a), an applicant shall propose to establish, strengthen, or fund an existing or proposed runaway and homeless youth center, a locally controlled facility providing temporary shelter, and counseling services

to juveniles who have left home without permission of their parents or guardians or to other homeless juveniles.

(b) In order to qualify for assistance under section 311(a), an applicant shall submit a plan to the Secretary including assurances that the applicant—

(1) shall operate a runaway and homeless youth center located in an area which is demonstrably frequented by or easily reachable by runaway and homeless youth;

(2) shall have a maximum capacity of no more than twenty children, with a ratio of staff to children of sufficient proportion to assure adequate supervision and treatment;

(3) shall develop adequate plans for contacting the child's parents or relatives and assuring the safe return of the child according to the best interests of the child, for contacting local government officials pursuant to informal arrangements established with such officials by the runaway and homeless youth center, and for providing for other appropriate alternative living arrangements;

(4) shall develop an adequate plan for assuring proper relations with law enforcement personnel, social service personnel, school system personnel, and welfare personnel, and the return of runaway and homeless youth from correctional institutions;

(5) shall develop an adequate plan for aftercare counseling involving runaway and homeless youth and their families within the State in which the runaway and homeless youth center is located and for assuring, as possible, that aftercare services will be provided to those children who are returned beyond the State in which the runaway and homeless youth center is located;

(6) shall keep adequate statistical records profiling the children and family members which it serves, except that records maintained on individual runaway and homeless youth shall not be disclosed without the consent of the individual youth and parent or legal guardian to anyone other than another agency compiling statistical records or a government agency involved in the disposition of criminal charges against an individual runaway and homeless youth, and reports or other documents based on such statistical records shall not disclose the identity of individual runaway and homeless youth;

(7) shall submit annual reports to the Secretary detailing how the center has been able to meet the goals of its plans and reporting the statistical summaries required by paragraph (6);

(8) shall demonstrate its ability to operate under accounting procedures and fiscal control devices as required by the Secretary;

(9) shall submit a budget estimate with respect to the plan submitted by such center under this subsection; and

(10) shall supply such other information as the Secretary reasonably deems necessary.

(42 U.S.C. 5712)

GRANTS FOR A NATIONAL COMMUNICATION SYSTEM

SEC. 313. (a) With funds reserved under subsection (b), the Secretary shall make grants for a national communication system to assist runaway and homeless youth in communicating with their families and with service providers.

(b) From funds appropriated to carry out this part and after making the allocation required by section 366(a)(2), the Secretary shall reserve—

(1) for fiscal year 1989 not less than $500,000;

(2) for fiscal year 1990 not less than $600,000; and

(3) for each of the fiscal years 1991 and 1992 not less than $750,000;

to carry out subsection (a).

(42 U.S.C. 5712a)

GRANTS FOR TECHNICAL ASSISTANCE AND TRAINING

SEC. 314. The Secretary may make grants to statewide and regional nonprofit organizations (and combinations of such organizations) to provide technical assistance and training to public and private entities (and combinations of such entities) that are eligible to receive grants under section 311(a), for the purpose of assisting such entities to establish and operate runaway and homeless youth centers.

(42 U.S.C. 5712b)

AUTHORITY TO MAKE GRANTS FOR RESEARCH, DEMONSTRATION, AND SERVICE PROJECTS

SEC. 315. (a) The Secretary may make grants to States, localities, and private entities (and combinations of such entities) to carry out research, demonstration, and service projects designed to increase knowledge concerning, and to improve services for, runaway and homeless youth.

(b) In selecting among applications for grants under subsection (a), the Secretary shall give special consideration to proposed projects relating to—

(1) juveniles who repeatedly leave and remain away from their homes;

(2) outreach to runaway and homeless youth;

(3) transportation of runaway and homeless youth in connection with services authorized to be provided under this part;

(4) the special needs of runaway and homeless youth programs in rural areas;

(5) the special needs of foster care home programs for runaway and homeless youth;

(6) transitional living programs for runaway and homeless youth; and

(7) innovative methods of developing resources that enhance the establishment or operation of runaway and homeless youth centers.

(c) In selecting among applicants for grants under subsection (a), the Secretary shall give priority to applicants who provide services directly to runaway and homeless youth.

(42 U.S.C. 5712c)

APPROVAL BY SECRETARY

SEC. 316. An application by a State, locality, or private entity for a grant under section 311(a) may be approved by the Secretary only if it is consistent with the applicable provisions of section 311(a) and meets the requirements set forth in section 312. Priority shall be given to grants smaller than $150,000. In considering grant applications under section 311(a), priority shall be given to organizations which have a demonstrated experience in the provision of service to runaway and homeless youth and their families.
(42 U.S.C. 5713)

GRANTS TO PRIVATE ENTITIES; STAFFING

SEC. 317. Nothing in this part shall be construed to deny grants to private entities which are fully controlled by private boards or persons but which in other respects meet the requirements of this part and agree to be legally responsible for the operation of the runaway and homeless youth center. Nothing in this part shall give the Federal Government control over the staffing and personnel decisions of facilities receiving Federal funds.
(42 U.S.C. 5714)

PART B—TRANSITIONAL LIVING GRANT PROGRAM

PURPOSE AND AUTHORITY FOR PROGRAM

SEC. 321. (a) The Secretary is authorized to make grants and to provide technical assistance to public and nonprofit private entities to establish and operate transitional living youth projects for homeless youth.

(b) For purposes of this part—

(1) the term "homeless youth" means any individual—

(A) who is not less than 16 years of age and not more than 21 years of age;

(B) for whom it is not possible to live in a safe environment with a relative; and

(C) who has no other safe alternative living arrangement; and

(2) the term "transitional living youth project" means a project that provides shelter and services designated to promote a transition to self-sufficient living and to prevent long-term dependency on social services.

(42 U.S.C. 5714–1)

ELIGIBILITY

SEC. 322. (a) To be eligible for assistance under this part, an applicant shall propose to establish, strengthen, or fund a transitional living youth project for homeless youth and shall submit to the Secretary a plan in which such applicant agrees, as part of such project—

(1) to provide, directly or indirectly, shelter (such as group homes, host family homes, and supervised apartments) and services (including information and counseling services in basic life skills, interpersonal skill building, educational advance-

ment, job attainment skills, and mental and physical health care) to homeless youth;

(2) to provide such shelter and such services to individual homeless youth throughout a continuous period not to exceed 540 days;

(3) to provide, directly or indirectly, on-site supervision at each shelter facility that is not a family home;

(4) that such shelter facility used to carry out such project shall have the capacity to accommodate not more than 20 individuals (excluding staff);

(5) to provide a number of staff sufficient to ensure that all homeless youth participating in such project receive adequate supervision and services;

(6) to provide a written transitional living plan to each youth based on an assessment of such youth's needs, designed to help the transition from supervised participation in such project to independent living or another appropriate living arrangement;

(7) to develop an adequate plan to ensure proper referral of homeless youth to social service, law enforcement, educational, vocational, training, welfare, legal service, and health care programs and to help integrate and coordinate such services for youths;

(8) to provide for the establishment of outreach programs designed to attract individuals who are eligible to participate in the project;

(9) to submit to the Secretary an annual report that includes information regarding the activities carried out with funds under this part, the achievements of the project under this part carried out by the applicant and statistical summaries describing the number and the characteristics of the homeless youth who participate in such project in the year for which the report is submitted;

(10) to implement such accounting procedures and fiscal control devices as the Secretary may require;

(11) to submit to the Secretary an annual budget that estimates the itemized costs to be incurred in the year for which the applicant requests a grant under this part;

(12) to keep adequate statistical records profiling homeless youth which it serves and not to disclose the identity of individual homeless youth in reports or other documents based on such statistical records;

(13) not to disclose records maintained on individual homeless youth without the consent of the individual youth and parent or legal guardian to anyone other than an agency compiling statistical records or a government agency involved in the disposition of criminal charges against youth; and

(14) to provide to the Secretary such other information as the Secretary may reasonably require.

(b) In selecting eligible applicants to receive grants under this part, the Secretary shall give priority to entities that have experience in providing to homeless youth shelter and services of the types described in subsection (a)(1).

(42 U.S.C. 5714–2)

PART C—GENERAL PROVISIONS

ASSISTANCE TO POTENTIAL GRANTEES

SEC. 341. The Secretary shall provide informational assistance to potential grantees interested in establishing runaway and homeless youth centers and transitional living youth projects. Such assistance shall consist of information on—

(1) steps necessary to establish a runaway and homeless youth center or transitional living youth project, including information on securing space for such center or such project, obtaining insurance, staffing, and establishing operating procedures;

(2) securing local private or public financial support for the operation of such center or such project, including information on procedures utilized by grantees under this title; and

(3) the need for the establishment of additional runaway and homeless youth centers in the geographical area identified by the potential grantee involved.

(42 U.S.C. 5714a)

LEASE OF SURPLUS FEDERAL FACILITIES FOR USE AS RUNAWAY AND HOMELESS YOUTH CENTERS OR AS TRANSITIONAL LIVING YOUTH SHELTER FACILITIES

SEC. 342. (a) The Secretary may enter into cooperative lease arrangements with States, localities, and nonprofit private agencies to provide for the use of appropriate surplus Federal facilities transferred by the General Services Administration to the Department of Health and Human Services for use as runaway and homeless youth centers or as transitional living youth shelter facilities if the Secretary determines that—

(1) the applicant involved has suitable financial support necessary to operate a runaway and homeless youth center or transitional living youth project, as the case may be, under this title;

(2) the applicant is able to demonstrate the program expertise required to operate such center in compliance with this title, whether or not the applicant is receiving a grant under this part; and

(3) the applicant has consulted with and obtained the approval of the chief executive officer of the unit of general local government in which the facility is located.

(b)(1) Each facility made available under this section shall be made available for a period of not less than 2 years, and no rent or fee shall be charged to the applicant in connection with use of such facility.

(2) Any structural modifications or additions to facilities made available under this section shall become the property of the United States. All such modifications or additions may be made only after receiving the prior written consent of the Secretary or other appropriate officer of the Department of Health and Human Services.

(42 U.S.C. 5714b)

PART D—ADMINISTRATIVE PROVISIONS

REPORTS

SEC. 361. (a) Not later than 180 days after the end of each fiscal year, the Secretary shall submit a report to the Committee on Education and Labor of the House of Representatives and the Committee on the Judiciary of the Senate on the status and accomplishments of the runaway and homeless youth centers which are funded under part A, with particular attention to—

(1) their effectiveness in alleviating the problems of runaway and homeless youth;

(2) their ability to reunite children with their families and to encourage the resolution of intrafamily problems through counseling and other services;

(3) their effectiveness in stengthening family relationships and encouraging stable living conditions for children; and

(4) their effectiveness in helping youth decide upon a future course of action.

(b) Not later than 180 days after the end of each fiscal year, the Secretary shall submit a report to the Committee on Education and Labor of the House of Representatives and the Committee on the Judiciary of the Senate on the status and accomplishments of the transitional living youth projects which are funded under part B, with particular attention to—

(1) the number and characteristics of homeless youth served by such projects;

(2) describing the types of activities carried out under such projects;

(3) the effectiveness of such projects in alleviating the immediate problems of homeless youth;

(4) the effectiveness of such projects in preparing homeless youth for self sufficiency;

(5) the effectiveness of such projects in helping youth decide upon future education, employment, and independent living; and

(6) the ability of such projects to strengthen family relationships, and encourage the resolution of intra-family problems through counseling and the development of self-sufficient living skills.

(42 U.S.C. 5715)

FEDERAL SHARE

SEC. 362. (a) The Federal share for the renovation of existing structures, the provision of counseling services, staff training, and the general costs of operations of such facility's budget for any fiscal year shall be 90 per centum. The non-Federal share may be in cash or in kind, fairly evaluated by the Secretary including plant, equipment, or services.

(b) Payments under this section may be made in installments, in advance, or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments.

(42 U.S.C. 5716)

RECORDS

SEC. 363. Records containing the identity of individual youth pursuant to this Act may under no circumstances be disclosed or transferred to any individual or to any public or private agency.
(42 U.S.C. 5731)

ANNUAL PROGRAM PRIORITIES

SEC. 364. (a) The Secretary shall develop for each fiscal year, and publish annually in the Federal Register for public comment a proposed plan specifying the subject priorities the Secretary will follow in making grants under this title for such fiscal year.

(b) Taking into consideration comments received in the 45-day period beginning on the date the proposed plan is published, the Secretary shall develop and publish, before December 31 of such fiscal year, a final plan specifying the priorities referred to in subsection (a).
(42 U.S.C. 5732)

COORDINATION WITH ACTIVITIES

SEC. 365. With respect to matters relating to communicable diseases, the Secretary shall coordinate the activities of health agencies in the Department of Health and Human Services with the activities of the entities that are eligible to receive grants under this title.
(42 U.S.C. 5733)

AUTHORIZATION OF APPROPRIATIONS

SEC. 366. (a)(1) To carry out the purposes of part A of this title there are authorized to be appropriated such sums as may be necessary for fiscal years 1989, 1990, 1991, and 1992.

(2) Not less than 90 percent of the funds appropriated under paragraph (1) for a fiscal year shall be available to carry out section 311(a) in such fiscal year.

(b)(1) Subject to paragraph (2), to carry out the purposes of part B of this title, there are authorized to be appropriated $5,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, and 1992.

(2) No funds may be appropriated to carry out part B of this title for a fiscal year unless the aggregate amount appropriated for such fiscal year to carry out part A of this title exceeds $26,900,000.

(c) The Secretary (through the Office of Youth Development which shall administer this title) shall consult with the Attorney General (through the Administrator of the Office of Juvenile Justice and Delinquency Prevention) for the purpose of cordinating the development and implementation of programs and activities funded under this title with those related programs and activities funded under title II of this Act and under the Omnibus Crime Control and Safe Streets Act of 1968,[1] as amended.

(d) No funds appropriated to carry out the purposes of this title—

[1] (42 U.S.C. 3701 et seq.).

(1) may be used for any program or activity which is not specifically authorized by this title; or

(2) may be combined with funds appropriated under any other Act if the purpose of combining such funds is to make a single discretionary grant or a single discretionary payment unless such funds are separately identified in all grants and contracts and are used for the purposes specified in this title.

(42 U.S.C 5751)

TITLE IV—MISSING CHILDREN

SHORT TITLE

SEC. 401. This title may be cited as the "Missing Children's Assistance Act".

FINDINGS

SEC. 402. The Congress hereby finds that—

(1) each year thousands of children are abducted or removed from the control of a parent having legal custody without such parent's consent, under circumstances which immediately place them in grave danger;

(2) many of these children are never reunited with their families;

(3) often there are no clues to the whereabouts of these children;

(4) many missing children are at great risk of both physical harm and sexual exploitation;

(5) in many cases, parents and local law enforcement officials have neither the resources nor the expertise to mount expanded search efforts;

(6) abducted children are frequently moved from one locality to another, requiring the cooperation and coordination of local, State, and Federal law enforcement efforts;

(7) on frequent occasions, law enforcement authorities quickly exhaust all leads in missing children cases, and require assistance from distant communities where the child may be located; and

(8) Federal assistance is urgently needed to coordinate and assist in this interstate problem.

(42 U.S.C. 5771)

DEFINITIONS

SEC. 403. For the purpose of this title—

(1) the term "missing child" means any individual less than 18 years of age whose whereabouts are unknown to such individual's legal custodian if—

(A) the circumstances surrounding such individual's disappearance indicate that such individual may possibly have been removed by another from the control of such individual's legal custodian without such custodian's consent; or

(B) the circumstances of the case strongly indicate that such individual is likely to be abused or sexually exploited; and

(2) the term "Administrator" means the Administrator of the Office of Juvenile Justice and Delinquency Prevention.
(42 U.S.C. 5772)

DUTIES AND FUNCTIONS OF THE ADMINISTRATOR

SEC. 404. (a) The Administrator shall—

(1) issue such rules as the Administrator considers necessary or appropriate to carry out this title;

(2) make such arrangements as may be necessary and appropriate to facilitate effective coordination among all federally funded programs relating to missing children (including the preparation of an annual comprehensive plan for facilitating such coordination);

(3) provide for the furnishing of information derived from the national toll-free telephone line, established under subsection (b)(1), to appropriate entities;

(4) provide adequate staff and agency resources which are necessary to properly carry out the responsibilities pursuant to this title; and

(5) not later than 180 days after the end of each fiscal year, submit a report to the President, Speaker of the House of Representatives, and the President pro tempore of the Senate—

(A) containing a comprehensive plan for facilitating cooperation and coordination in the succeeding fiscal year among all agencies and organizations with responsibilities related to missing children;

(B) identifying and summarizing effective models of Federal, State, and local coordination and cooperation in locating and recovering missing children;

(C) identifying and summarizing effective program models that provide treatment, counseling, or other aid to parents of missing children or to children who have been the victims of abduction;

(D) describing how the Administrator satisfied the requirements of paragraph (4) in the preceding fiscal year;

(E) describing in detail the number and types of telephone calls received in the preceding fiscal year over the national toll-free telephone line established under subsection (b)(1)(A) and the number and types of communications referred to the national communications system established under section 313;

(F) describing in detail the activities in the preceding fiscal year of the national resource center and clearinghouse established under subsection (b)(2);

(G) describing all the programs for which assistance was provided under section 405 in the preceding fiscal year;

(H) summarizing the results of all research completed in the preceding year for which assistance was provided at any time under this title; and

(I)(i) identifying each clearinghouse with respect to which assistance is provided under section 405(a)(9) in the preceding fiscal year;

(ii) describing the activities carried out by such clearinghouse in such fiscal year;

(iii) specifying the types and amounts of assistance (other than assistance under section 405(a)(9)) received by such clearinghouse in such fiscal year; and

(iv) specifying the number and types of missing children cases handled (and the number of such cases resolved) by such clearinghouse in such fiscal year and summarizing the circumstances of each such cases.

(b) The Administrator, either by making grants to or entering into contracts with public agencies or nonprofit private agencies, shall—

(1)(A) establish and operate a national 24-hour toll-free telephone line by which individuals may report information regarding the location of any missing child, or other child 13 years of age or younger whose whereabouts are unknown to such child's legal custodian, and request information pertaining to procedures necessary to reunite such child with such child's legal custodian; and

(B) coordinating the operation of such telephone line with the operation of the national communications system established under section 313;

(2) establish and operate a national resource center and clearinghouse designed—

(A) to provide to State and local governments, public and private nonprofit agencies, and individuals information regarding—

(i) free or low-cost legal, restaurant, lodging, and transportation services that are available for the benefit of missing children and their families; and

(ii) the existence and nature of programs being carried out by Federal agencies to assist missing children and their families;

(B) to coordinate public and private programs which locate, recover, or reunite missing children with their legal custodians;

(C) to disseminate nationally information about innovative and model missing childrens' programs, services, and legislation; and

(D) to provide technical assistance and training to law enforcement agencies, State and local governments, elements of the criminal justice system, public and private nonprofit agencies, and individuals in the prevention, investigation, prosecution, and treatment of the missing and exploited child case and in locating and recovering missing children; and

(3) periodically conduct national incidence studies to determine for a given year the actual number of children reported missing each year, the number of children who are victims of abduction by strangers, the number of children who are the

victims of parental kidnapings, and the number of children who are recovered each year; and

(4) provide to State and local governments, public and private nonprofit agencies, and individuals information to facilitate the lawful use of school records and birth certificates to identify and locate missing children.

(c) Nothing contained in this title shall be construed to grant to the Administrator any law enforcement responsibility or supervisory authority over any other Federal agency.

(42 U.S.C. 5773)

GRANTS

SEC. 405. (a) The Administrator is authorized to make grants to and enter into contracts with public agencies or nonprofit private organizations, or combinations thereof, for research, demonstration projects, or service programs designed—

(1) to educate parents, children, and community agencies and organizations in ways to prevent the abduction and sexual exploitation of children;

(2) to provide information to assist in the locating and return of missing children;

(3) to aid communities in the collection of materials which would be useful to parents in assisting others in the identification of missing children;

(4) to increase knowledge of and develop effective treatment pertaining to the psychological consequences, on both parents and children, of—

(A) the abduction of a child, both during the period of disappearance and after the child is recovered; and

(B) the sexual exploitation of a missing child;

(5) to collect detailed data from selected States or localities on the actual investigative practices utilized by law enforcement agencies in missing children's cases;

(6) to address the particular needs of missing children by minimizing the negative impact of judicial and law enforcement procedures on children who are victims of abuse or sexual exploitation and by promoting the active participation of children and their families in cases involving abuse or sexual exploitation of children;

(7) to address the needs of missing children (as defined in section 403(1)(A)) and their families following the recovery of such children;

(8) to reduce the likelihood that individuals under 18 years of age will be removed from the control of such individuals' legal custodians without such custodians' consent; and

(9) to establish or operate statewide clearinghouses to assist in locating and recovering missing children.

(b) In considering grant applications under this title, the Administrator shall give priority to applicants who—

(1) have demonstrated or demonstrate ability in—

(A) locating missing children or locating and reuniting missing children with their legal custodians;

(B) providing other services to missing children or their families; or

(C) conducting research relating to missing children; and

(2) with respect to subparagraphs (A) and (B) of paragraph (1), substantially utilize volunteer assistance.

The Administrator shall give first priority to applicants qualifying under subparagraphs (A) and (B) of paragraph (1).

(c) In order to receive assistance under this title for a fiscal year, applicants shall give assurance that they will expend, to the greatest extent practicable, for such fiscal year an amount of funds (without regard to any funds received under any Federal law) that is not less than the amount of funds they received in the preceding fiscal year from State, local, and private sources.

(42 U.S.C. 5775)

CRITERIA FOR GRANTS

SEC. 406. (a) In carrying out the programs authorized by this title, the Administrator shall establish—

(1) annual research, demonstration, and service program priorities for making grants and contracts pursuant to section 405; and

(2) criteria based on merit for making such grants and contracts.

Not less than 60 days before establishing such priorities and criteria, the Administrator shall publish in the Federal Register for public comment a statement of such proposed priorities and criteria.

(b) No grant or contract exceeding $50,000 shall be made under this title unless the grantee or contractor has been selected by a competitive process which includes public announcement of the availability of funds for such grant or contract, general criteria for the selection of recipients or contractors, and a description of the application process and application review process.

(c) Multiple grants or contracts to the same grantee or contractor within any 1 year to support activities having the same general purpose shall be deemed to be a single grant for the purpose of this subsection, but multiple grants or contracts to the same grantee or contractor to support clearly distinct activities shall be considered separate grants or contractors.

(42 U.S.C. 5776)

AUTHORIZATION OF APPROPRIATIONS

SEC. 407. To carry out the provisions of this title, there are authorized to be appropriated such sums as may be necessary for fiscal years 1989, 1990, 1991, and 1992.

(42 U.S.C. 5777)

SPECIAL STUDY AND REPORT

SEC. 408. (a) Not later than 1 year after the date of the enactment of the Juvenile Justice and Delinquency Prevention Amendments of 1988, the Administrator shall begin to conduct a study to determine the obstacles that prevent or impede individuals who have legal custody of children from recovering such children from

parents who have removed such children from such individuals in violation of law.

(b) Not later than 3 years after the date of the enactment of the Juvenile Justice and Delinquency Prevention Amendments of 1988, the Secretary shall submit a report to the chairman of the Committee on Education and Labor of the House of Representatives and the chairman of the Committee on the Judiciary of the Senate containing a description, and a summary of the results, of the study conducted under subsection (a).

(42 U.S.C. 5778)

APPENDIX

ANTI-DRUG ABUSE ACT OF 1988

(Public Law 100–690; 102 Stat. 4181 et seq.)

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TITLE III—DRUG ABUSE EDUCATION AND PREVENTION

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Subtitle B—Drug Abuse Education and Prevention

CHAPTER 1—DRUG EDUCATION AND PREVENTION RELATING TO YOUTH GANGS

SEC. 3501. ESTABLISHMENT OF DRUG ABUSE EDUCATION AND PREVENTION PROGRAM RELATING TO YOUTH GANGS.

The Secretary of Health and Human Services, through the Administration on Children, Youth, and Families, shall make grants to, and enter into contracts with, public and nonprofit private agencies, organizations (including community based organizations with demonstrated experience in this field), institutions, and individuals, to carry out projects and activities—

(1) to prevent and to reduce the participation of youth in the activities of gangs that engage in illicit drug-related activities,

(2) to promote the involvement of youth in lawful activities in communities in which such gangs commit drug-related crimes,

(3) to prevent the abuse of drugs by youth, to educate youth about such abuse, and to refer for treatment and rehabilitation members of such gangs who abuse drugs,

(4) to support activities of local police departments and other local law enforcement agencies to conduct educational outreach activities in communities in which gangs commit drug-related crimes,

(5) to inform gang members and their families of the availability of treatment and rehabilitation services for drug abuse,

(6) to facilitate Federal and State cooperation with local school officials to assist youth who are likely to participate in gangs that commit drug-related crimes,

(7) to facilitate coordination and cooperation among—

(A) local education, juvenile justice, employment and social service agencies, and

(B) drug abuse referral, treatment, and rehabilitation programs,

for the purpose of preventing or reducing the participation of youth in activities of gangs that commit drug-related crimes, and

(8) to provide technical assistance to eligible organizations in planning and implementing drug abuse education, prevention, rehabilitation, and referral programs for youth who are members of gangs that commit drug-related crimes.

(42 U.S.C. 11801)

SEC. 3502. APPLICATION FOR GRANTS AND CONTRACTS.

(a) SUBMISSION OF APPLICATIONS.—Any agency, organization, institution, or individual desiring to receive a grant, or to enter into a contract, under section 3501 shall submit to the Secretary an application at such time, in such manner, and containing or accompanied by such information as the Secretary may require by rule.

(b) CONTENTS OF APPLICATION.—Each application for assistance under this chapter shall—

(1) set forth a project or activity for carrying out one or more of the purposes specified in section 3501 and specifically identify each such purpose such project or activity is designed to carry out,

(2) provide that such project or activity shall be administered by or under the supervision of the applicant,

(3) provide for the proper and efficient administration of such project or activity,

(4) provide for regular evaluation of the operation of such project or activity,

(5) provide that regular reports on such project or activity shall be submitted to the Secretary, and

(6) provide such fiscal control and fund accounting procedures as may be necessary to ensure prudent use, proper disbursement, and accurate accounting of funds received under this chapter.

(42 U.S.C. 11802)

SEC. 3503. APPROVAL OF APPLICATIONS.

In selecting among applications submitted under section 3502(a), the Secretary shall give priority to applicants who propose to carry out projects and activities—

(1) for the purposes specified in section 3501 in geographical areas in which frequent and severe drug-related crimes are committed by gangs whose membership is composed primarily of youth, and

(2) that the applicant demonstrates have the broad support of community based organizations in such geographical areas.

(42 U.S.C. 11803)

SEC. 3504. COORDINATION WITH JUVENILE JUSTICE PROGRAMS.

The Secretary shall coordinate the program established by section 3501 with the programs and activities carried out under the Juvenile Justice and Delinquency Prevention Act of 1974 and with

the programs and activities of the Attorney General, to ensure that all such programs and activities are complementary and not duplicative.

(42 U.S.C. 11804)

SEC. 3505. AUTHORIZATION OF APPROPRIATIONS.

To carry out this chapter, there are authorized to be appropriated $15,000,000 for the fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990 and 1991.

(42 U.S.C. 11805)

CHAPTER 2—PROGRAM FOR RUNAWAY AND HOMELESS YOUTH

SEC. 3511. ESTABLISHMENT OF PROGRAM.

(a) The Secretary shall make grants to public and private nonprofit agencies, organizations, and institutions to carry out research, demonstration, and services projects designed—

(1) to provide individual, family, and group counseling to runaway youth and their families and to homeless youth for the purpose of preventing or reducing the illicit use of drugs by such youth,

(2) to develop and support peer counseling programs for runaway and homeless youth related to the illicit use of drugs,

(3) to develop and support community education activities related to illicit use of drugs by runaway and homeless youth, including outreach to youth individually,

(4) to provide to runaway and homeless youth in rural areas assistance (including the development of community support groups) related to the illicit use of drugs,

(5) to provide to individuals involved in providing services to runaway and homeless youth, information and training regarding issues related to the illicit use of drugs by runaway and homeless youth,

(6) to support research on the illicit drug use by runaway and homeless youth, and the effects on such youth of drug abuse by family members, and any correlation between such use and attempts at suicide, and

(7) to improve the availability and coordination of local services related to drug abuse, for runaway and homeless youth.

(b) PRIORITY.—In selecting among applicants for grants under subsection (a), the Secretary shall give priority to agencies and organizations that have experience in providing services to runaway and homeless youth.

(c) LIMITATION.—Grants under this section may be made for a period not to exceed 3 years.

(42 U.S.C. 11821)

SEC. 3512. ANNUAL REPORT.

Not later than 180 days after the end of a fiscal year for which funds are appropriated to carry out this chapter, the Secretary shall submit to the President, the Speaker of the House of Representatives, and the President pro tempore of the Senate a report that contains—

(1) a description of the types of projects and activities for which grants were made under this chapter for such fiscal year,

(2) a description of the number and characteristics of the youth and families served by such projects and activities, and

(3) a description of exemplary projects and activities for which grants were made under this chapter for such fiscal year.

(42 U.S.C. 11822)

SEC. 3513. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—Subject to subsection (b), to carry out this chapter, there are authorized to be appropriated $15,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990 and 1991.

(b) LIMITATION.—No funds are authorized to be appropriated for a fiscal year to carry out this chapter unless the aggregate amount appropriated to carry out title III of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5701–5751) for such fiscal year is not less than the aggregate amount appropriated to carry out such title for the preceding fiscal year.

(42 U.S.C. 11823)

SEC. 3514. APPLICATIONS.

(a) SUBMISSION OF APPLICATION.—Any State, unit of local government (or combination of units of local government), agency, organization, institution, or individual desiring to receive a grant, or enter into a contract, under this chapter shall submit an application at such time, in such manner, and containing or accompanied by such information as may be prescribed by the Federal officer who is authorized to make such grant or enter into such contract (hereinafter in this chapter referred to as the "appropriate Federal officer").

(b) CONTENTS OF APPLICATION.—In accordance with guidelines established by the appropriate Federal officer, each application for assistance under this chapter shall—

(1) set forth a project or activity for carrying out one or more of the purposes for which such grant or contract is authorized to be made and expressly identify each such purpose such project or activity is designed to carry out,

(2) provide that such project or activity shall be administered by or under the supervision of the applicant,

(3) provide for the proper and efficient administration of such project or activity,

(4) provide for regular evaluation of such project or activity,

(5) provide that regular reports on such project or activity shall be sent to the appropriate Federal officer, and

(6) provide for such fiscal control and fund accounting procedures as may be necessary to ensure prudent use, proper disbursement, and accurate accounting of funds received under this chapter.

(42 U.S.C. 11824)

SEC. 3515. REVIEW OF APPLICATIONS.

(a) CONSIDERATION OF FACTORS.—In reviewing applications submitted under this chapter, the appropriate Federal officer shall consider—

(1) the relative cost and effectiveness of the proposed project or activity in carrying out purposes for which the requested grant or contract is authorized to be made,

(2) the extent to which such project or activity will incorporate new or innovative techniques,

(3) the increase in capacity of the State or the public or nonprofit private agency, organization, institution, or individual involved to provide services to address the illicit use of drugs by runaway and homeless youth,

(4) the extent to which such project or activity serves communities which have high rates of illicit drug use by juveniles (including runaway and homeless youth),

(5) the extent to which such project or activity will provide services in geographical areas where similar services are unavailable or in short supply, and

(6) the extent to which such project or activity will increase the level of services, or coordinate other services, in the community available to eligible youth.

(b) COMPETITIVE PROCESS.—(1) Applications submitted under this chapter shall be selected for approval through a competitive process to be established by rule by the appropriate Federal officer. As part of such a process, such officer shall publish a notice in the Federal Register—

(A) announcing the availability of funds to carry out this part,

(B) stating the general criteria applicable to the selection of applicants to receive such funds, and

(C) describing the procedures applicable to submitting and reviewing applications for such funds.

(2) As part of such process, each application referred to in subsection (a) shall be subject to peer review by individuals (excluding officers and employees of the Department of Justice and the Department of Health and Human Services) who have expertise in the subject matter related to the project or activity proposed in such application.

(c) EXPEDITED REVIEW.—The appropriate Federal officer shall expedite the consideration of an application referred to in subsection (a) if the applicant demonstrates, to the satisfaction of the [1] such officer, that the failure to expedite such consideration would prevent the effective implementation of the project or activity set forth in such application.

(42 U.S.C. 11825)

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Subtitle C—Miscellaneous

SEC. 3601. DEFINITIONS.

Unless otherwise defined by an Act amended by this title, for purposes of this title and the amendments made by this title—

(1) the term "community based" has the meaning given it in section 103(1) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603(1)),

(2) the term "controlled substance" has the meaning given it in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)),

[1] Error in amendment made by section 1001(b)(2) of Pub. L. 101-204. Should strike "the".

(3) the term "controlled substance analogue" has the meaning given it in section 102(32) of the Controlled Substances Act (21 U.S.C. 802(32)),

(4) the term "drug" means—

(A) a beverage containing alcohol,

(B) a controlled substance, or

(C) a controlled substance analogue,

(5) the term "Director" means the Director of the ACTION Agency,

(6) the term "illicit" means unlawful or injurious,

(7) the term "institution of higher education" has the meaning given it in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)),

(8) the term "public agency" has the meaning given it in section 103(11) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603(11)),

(9) the term "Secretary" means—

(A) the Secretary of Education for purposes of subtitle A (other than section 3201),

(B) the Secretary of Agriculture for purposes of the amendments made by section 3201, and

(C) the Secretary of Health and Human Services for purposes of subtitle B,

(10) the term "State" has the meaning given it in section 103(7) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603(7)),

(11) the term "treatment" has the meaning given it in section 103(15) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603(15)), and

(12) the term "unit of general local government" has the meaning given it in section 103(8) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603(8)).

(42 U.S.C. 11851)

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TITLE VII—DEATH PENALTY AND OTHER CRIMINAL AND LAW ENFORCEMENT MATTERS

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Subtitle F—Juvenile Justice and Delinquency Prevention

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CHAPTER 4—MISCELLANEOUS

SEC. 7295. INVESTIGATION AND REPORT BY THE COMPTROLLER GENERAL.

(a) INVESTIGATION.—Not later than 180 days after the date of the enactment of the Juvenile Justice and Delinquency Prevention Amendments of 1988, the Comptroller General of the United States shall begin to conduct an investigation of the extent to which—

(1) valid court orders, and

(2) court orders other than valid court orders,

are used in the 5-year period ending on December 31, 1988, to place juveniles in secure detention facilities, in secure correctional facilities, and in jails and lockups for adults.

(b) REPORT.—(1) Not later than 3 years after the date of the enactment of the Juvenile Justice and Delinquency Prevention Amendments of 1988, the Comptroller General shall submit a report to the chairman of the Committee on Education and Labor of the House of Representatives and the chairman of the Committee on the Judiciary of the Senate containing a description, and a summary of the results of the investigation conducted under subsection (a).

(2) In such report, the Comptroller shall specify separately with respect to secure detention facilities, secure correctional facilities, and jails and lockups for adults—

(A) the frequency with which juveniles were confined,

(B) the length of confinement of juveniles, and

(C) the types of conduct of juveniles for which confinement was imposed,

as a result of the enforcement of court orders of the 2 types described in paragraphs (1) and (2) of subsection (a).

(c) DEFINITIONS.—For purposes of this section—

(1) the term "juvenile" means an individual who is less than 18 years of age,

(2) the term "secure correctional facility" has the meaning given it in section 103(13) of the Juvenile Justice and Delinquency Prevention Act of 1974 (41 U.S.C. 5603(13)),

(3) the term "secure detention facility" has the meaning given it in section 103(12) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603(12)), and

(4) the term "valid court order" has the meaning given it in section 103(16) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603(16)).

(42 U.S.C. 5617 note)

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PART 3

THE FORMULA GRANT REGULATION AND RELATED FEDERAL REGISTER ISSUES

See pages B 3 & 4
and B 14 for
Amendments

DEPARTMENT OF JUSTICE

OFFICE OF JUVENILE JUSTICE AND
DELINQUENCY PREVENTION

28 CFR PART 31

FORMULA GRANTS FOR JUVENILE JUSTICE

**FEDERAL REGISTER JUNE 20, 1985,
AS AMENDED AUGUST 8, 1989**

Typed from copy:
Federal Register, June 20, 1985
as amended August 8, 1989

PART 31—FORMULA GRANTS

Subpart A—General Provisions

Subpart B—Eligible Applicants

Subpart C—General Requirements

Subpart D—Juvenile Justice Act Requirements

Subpart E—General Conditions and Assurances

Authority: Juvenile Justice and Delinquency Prevention Act of 1974, as amended (42 U.S.C. 5601 et seq.).

Subpart A—General Provisions

§31.1 General.

This part defines eligibility and sets forth requirements for application for and administration of formula grants to State governments authorized by Part B, Subpart I, of the Juvenile Justice and Delinquency Prevention Act.

§31.2 Statutory authority.

The Statute establishing the Office of Juvenile Justice and Delinquency Prevention and giving authority to make grants for juvenile justice and delinquency prevention improvement programs is the *Juvenile Justice and Delinquency Prevention Act of 1974*, as amended (42 U.S.C. 5601 et seq.).

§31.1 Submission date.

Formula Grant Applications for each Fiscal Year should be submitted to OJJDP by August 1st (60 days prior to the beginning of the fiscal year) or within 60 days after the States are officially notified of the fiscal year formula grant allocations.

Subpart B—Eligible Applicants

§31.100 Eligibility.

All States as defined by section 103(7) of the JJDP Act.

§31.101 Designation of State agency.

The Chief Executive of each State which chooses to apply for a formula grant shall establish or designate a State agency as the sole agency for supervising the preparation and administration of the plan. The plan must demonstrate compliance with administrative and supervisory board membership requirements established by the OJJDP Administrator pursuant to Section 291(c) of the JJDP Act. States must have available for review a copy of the State law or executive order establishing the State agency and its authority.

§31.102 State agency structure.

The State agency may be a discrete unit of State government or a division or other component of an existing State crime commission, planning agency or other appropriate unit of State government. Details of organization and structure are matters of State discretion, provided that the agency: (a) Is a definable entity in the executive branch with the requisite authority to carry out the responsibilities imposed by the JJDP Act; (b) has a supervisory board (i.e. board of directors, commission, committee, council, or other policy board) which has responsibility for supervising the preparation and administration of the plan and its implementation; and (c) has sufficient staff and staff capability to carry out the board's policies and the agency's duties and responsibilities to administer the program, develop the plan, process applications, administer grants awarded under the plan, monitor and evaluate programs and projects, provide administration/support services, and perform such accountability functions as are necessary to the administration of Federal funds, such as grant close-out and audit of subgrant and contract funds.

§31.103 Membership of Supervisory Board.

The State advisory group appointed under section 223(a)(3) may operate as the supervisory board for the State agency, at the discretion of the Governor. Where, however, a State has continuously maintained a broad-based law enforcement and criminal justice supervisory board (council) meeting all the requirements of section 402(b)(2) of the Justice System Improvement Act of 1979, and wishes to maintain such a board, such composition shall continue to be acceptable provided that the board's membership includes the chairman and at least two additional citizen members of the State advisory group. For purposes of this requirement a citizen member is defined as any person who is not a full-time government employee or elected official. Any executive committee of such a board must include the same proportion of juvenile justice advisory group members as are included in the total board membership. Any other proposed supervisory board membership is subject to case by case review and approval of the OJJDP Administrator and will require, at a minimum, "balanced representation" of juvenile justice interests.

Subpart C—General Requirements

§31.200 General.

This subpart sets forth general requirements applicable to formula grant recipients under the JJDP Act of 1974, as amended. Applicants must assure compliance or submit necessary information on these requirements.

§31.201 Audit.

The State must assure that it adheres to the audit requirements enumerated in the "Financial and Administrative Guide for Grants", Guide Manual 7100.1 (current edition). Chapter 8 of the Manual contains a comprehensive statement of audit policies and requirements relative to grantees and subgrantees.

§31.202 Civil Rights.

(a) To carry out the State's Federal civil rights responsibilities the plan must:
  (1) Designate a civil rights contact person who has lead responsibility in insuring that all applicable civil rights requirements, assurances, and conditions are met and who shall act as liaison in all civil rights matters with OJJDP and the OJP Office of Civil Rights Compliance (OCRC); and
  (2) Provide the Council's Equal Employment Opportunity Program (EEOP), if required to maintain one under 28 CFR 42.301, *et seq.*, where the application is for $500,000 or more.

(b) The application must provide assurance that the State will:
  (1) Require that every applicant required to formulate an EEOP in accordance with 28 CFR 42.201 et seq., submit a certification to the State that it has a current EEOP on file, which meets the requirement therein;
  (2) Require that every criminal or juvenile justice agency applying for a grant of $500,000 or more submit a copy of its EEOP (if required to maintain one under 28 CFR 42.301, et seq.) to OCRC at the time it submits its application to the State;
  (3) Inform the public and subgrantees of affected persons' rights to file a complaint of discrimination with OCRC for investigation;
  (4) Cooperate with OCRC during compliance reviews of recipients located within the State; and
  (5) Comply, and that its subgrantees and contractors will comply with the requirement that, in the event that a Federal or State court or administrative agency makes a finding of discrimination of the basis of race, color, religion, national origin, or sex (after a due process hearing) against a State or a subgrantee or contractor, the affected recipient or contractor will forward a copy of the finding to OCRC.

§31.203 Open meetings and public access to records.

The State must assure that the State agency and its supervisory board established pursuant to section 291(c)(1) and the State advisory group established pursuant to section 223(a)(3) will follow applicable State open meeting and public access laws and regulations in the conduct of meetings and the maintenance of records relating to their functions.

Subpart D—Juvenile Justice Act Requirements

§31.300 General.

This subpart sets forth specific JJDP Act requirements for application and receipt of formula grants.

§31.301 Funding.

(a) *Allocation to States.* Each state receives a base allocation of $325,000, and each territory receives a base allocation of $75,000 when the title II appropriation is less than $75 million (other than part D). When the title II appropriation equals or exceeds $75 million (other than part D), each state receives a base allocation of $400,000, and each territory receives a base allocation of $100,000. To the extent necessary, each state and territory's base allocation will be reduced proportionately to ensure that no state receives less than it was allocated in Fiscal Year 1988.

(b) *Funds for Local Use.* At least two-thirds of the formula grant application to the state (other than the section 222(d) State Advisory Group set aside) must be used for programs by local government, local private agencies, and eligible Indian tribes, unless the State applies for and

is granted a waiver by the OJJDP. The proportion of pass-through funds to be made available to eligible Indian tribes shall be based upon that proportion of the state youth population under 18 years of age who reside in geographical areas where the tribes perform law enforcement functions. Pursuant to section 223(a)(5)(C) of the JJDP Act, each of the standards set forth in paragraphs (b)(1)(i) through (iii) of this section must be met in order to establish the eligibility of Indian tribes to receive pass through funds:

(1) (i) The tribal entity must be recognized by the Secretary of the Interior as an Indian tribe that performs law enforcement functions as defined in paragraph (b)(2) of this section.

(ii) The tribal entity must agree to attempt to comply with the requirements of section 223(a)(12)(A), (13), and (14) of the JJDP Act; and

(iii) The tribal entity must identify the juvenile justice needs to be served by these funds within the geographical area where the tribe performs law enforcement functions.

(2) "Law enforcement functions" are deemed to include those activities pertaining to the custody of children, including, but not limited to, police efforts to prevent, control, or reduce crime and delinquency or to apprehend criminal and delinquent offenders, and/or activities of adult and juvenile corrections, probation, or parole authorities.

(3) To carry out this requirement, OJJDP will annually provide each state with the most recent Bureau of Census statistics on the number of persons under age 18 living within the state, and the number of persons under age 18 who reside in geographical areas where Indian tribes perform law enforcement functions.

(4) Pass-through funds available to tribal entities under section 223(a)(5)(C) shall be made available within states to Indian tribes, combinations of Indian tribes, or to an organization or organizations designated by such tribe(s), that meet the standards set forth in paragraphs (b)(1)(i)-(iii) of this section. Where the relative number of persons under age 18 within a geographic area where an Indian tribe performs law enforcement functions is too small to warrant an individual subgrant to subgrants, the state ~~consultation with the eligible tribe(s), make pass-through funds available to a combin~~ ible tri within the state, ~~or to an organization, or organizations~~ p of ~~qualifying tribes, or target the funds on the larger~~ the state.

(5) Consi su ion with Indian tribes or a combination of eligible tribes within the state or an organization or organizations designated by qualifying tribes, in the development of a state plan which adequately takes into account the juvenile justice needs and requests of those Indian tribes within the state.

(c) *Match.* Formula grants under the JJDP Act shall be 100% of approved costs, with the exception of planning and administration funds, which require a 100% cash match (dollar for dollar), and construction projects funded under section 227(a)(2) which also require a 100% cash match.

(d) *Funds for Administration.* Not more than 7.5% of the total annual formula grant award may be utilized to develop the annual juvenile justice plan and pay for administrative expenses, including project monitoring evaluation. These funds are to be matched on a dollar for dollar basis. The State shall make available needed funds for planning and administration to units of local government or combinations on an equitable basis. Each annual application must identify uses of such funds.

(e) *Nonparticipating States.* Pursuant to section 223(d), the OJJDP Administrator shall endeavor to make the fund allotment under section 222(a), of a State which chooses not to participate or loses its eligibility to participate in the formula grant program, directly available to local public and private nonprofit agencies within the nonparticipating State. The funds may be used only for the purpose(s) of achieving deinstitutionalization of status offenders and nonoffenders, separation of juveniles from incarcerated adults, and/or removal of juveniles from adult jails and lockups. Absent the demonstration of compelling circumstances justifying the reallocation of formula grant funds back to the State to which the funds were initially allocated, or the pendency of administrative hearing proceedings under section 223(d), formula grant funds will be reallocated on October 1 following the fiscal year for which the funds were appropriated.

Reallocated funds will be competitively awarded to eligible recipients pursuant to program announcements published in the Federal Register.

§31.302 Applicant State agency.

(a) Pursuant to section 223(a)(1), section 223(a)(2) and section 291(c) of the JJDP Act, the State must assure that the State agency approved under Section 291(c) has been designated as the sole agency for supervising the preparation and administration of the plan and has the authority to implement the plan.

(b) *Advisory Group*. Pursuant to section 223(a)(3) of the JJDP Act, the Chief Executive:
(1) Shall establish an advisory group pursuant to section 223(a)(3) of the JJDP Act. The State shall provide a list of all current advisory group members, indicating their respective dates of appointment and how each member meets the membership requirements specified in this section of the Act.
(2) Should consider, in meeting the statutory membership requirements of section 223(a)(3)(A) to (E), appointing at least one member who represents each of the following: A law enforcement officer such as a police officer; a juvenile or family court judge; a probation officer; a corrections official; a prosecutor; a representative from an organization, such as a parents group, concerned with teenage drug and alcohol abuse; and a high school principal.

(c) The State shall assure that it complies with the Advisory Group Financial support requirement of section 222(d) and the composition and function requirements of section 223(a)(3) of the JJDP Act.

§31.303 Substantive Requirements.

(a) *Assurances*. The State must certify through the provision of assurances that it has complied and will comply (as appropriate) with section 223(a)(4), (5), (6), (7), (8)(C), (9), (10), (11), (16), (17), (18), (19), (20), and (21), and section 229 and 291(d), in formulating and implementing the state plan. The Formula Grant Application Kit can be used as a reference in providing these assurances.

(b) *Serious Juvenile Offender Emphasis*. Pursuant to sections 101(a)(8) and 223(a)(10) of the JJDP Act, the Office encourages States that have identified serious and violent juvenile offenders as a priority problem to allocate formula grant funds to programs designed for serious and violent juvenile offenders at a level consistent with the extent of the problem as identified through the State planning process. Particular attention should be given to improving prosecution, sentencing procedures, providing resources necessary for informed dispositions, providing for effective rehabilitation, and facilitating the coordination of services between the juvenile justice and criminal justice systems.

(c) *Deinstitutionalization of Status Offender and Non-Offenders*. Pursuant to section 223(a)(12)(A) of the JJDP Act, the State shall:
(1) Describe its plan, procedure, and timetable covering the three-year planning cycle, for assuring that the requirements of this section are met. Refer to §31.303(f)(3) for the rules related to the valid court order exception to this Act requirement.
(2) Describe the barriers the State faces in achieving full compliance with the provisions of this requirement.
(3) For those States that have achieved "substantial compliance", as outlined in section 223(c) of the Act, document the unequivocal commitment to achieving full compliance.
(4) Those States which, based upon the most recently submitted monitoring report, have been found to be in full compliance with section 223(a)(12)(A) may, in lieu of addressing paragraphs (c)(1), (2), and (3) of this section, provide an assurance that adequate plans and resources are available to maintain full compliance.

(5) Submit the report required under section 223(a)(12)(B) of the Act as part of the annual monitoring report required by section 223(a)(15) of the Act.

(d) *Contact with Incarcerated Adults.*

(1) Pursuant to section 223(a)(13) of the JJDP Act the State shall:

(i) Describe its plan and procedure, covering the three-year planning cycle, for assuring that the requirements of this section are met. The term *regular contact* is defined as sight and sound contact with incarcerated adults, including inmate trustees. This prohibition seeks as complete a separation as possible and permits no more than haphazard or accidental contact between juveniles and incarcerated adults. In addition, include a timetable for compliance and justify any deviation from a previously approved timetable.

(ii) In those isolated instances where juvenile criminal-type offenders remain confined in adult facilities or facilities in which adults are confined, the State must set forth the procedures for assuring no regular sight and sound contact between such juveniles and adults.

(iii) Describe the barriers which may hinder the separation of alleged or adjudicated criminal-type offenders, status offenders and non-offenders from incarcerated adults in any particular jail, lockup, detention or correctional facility.

(iv) Those States which, based upon the most recently submitted monitoring report, have been found to be in compliance with section 223(a)(13) may, in lieu of addressing paragraphs (d)(i), (ii), and (iii) of this section, provide an assurance that adequate plans and resources are available to maintain compliance.

(v) Assure that adjudicated offenders are not reclassified administratively and transferred to an adult (criminal) correctional authority to avoid the intent of segregating adults and juveniles in correctional facilities. This does not prohibit or restrict waiver of juveniles to criminal court for prosecution, according to State law. It does, however, preclude a State from administratively transferring a juvenile offender to an adult correctional authority or a transfer within a mixed juvenile and adult facility for placement with adult criminals either before or after a juvenile reaches the statutory age of majority. It also precludes a State from transferring adult offenders to juvenile correctional authority for placement.

(2) *Implementation.* The requirement of this provision is to be planned and implemented immediately by each State in light of identified constraints on immediate implementation. Immediate compliance is required where no constraints exist. Where constraints exist, the designated date of compliance in the latest approved plan is the compliance deadline. Those States not in compliance must show annual progress toward achieving compliance until compliance is reached.

(e) *Removal of Juveniles From Adult Jails and Lockups.* Pursuant to section 223(a)(14) of the JJDP Act, the State shall:

(1) Describe its plan, procedure, and timetable for assuring that requirements of this section will be met beginning after December 8, 1985. Refer to §31.303(f)(4) to determine the regulatory exception to this requirement.

(2) Describe the barriers which the State faces in removing all juveniles from adult jails and lockups. This requirement excepts only those juveniles formally waived or transferred to criminal court and against whom criminal felony charges have been filed, or juveniles over whom a criminal court has original or concurrent jurisdiction and such court's jurisdiction has been invoked through the filing of criminal felony charges.

(3) (i) Determine whether or not a facility in which juveniles are detained or confined is an adult jail or lockup. In circumstances where the juvenile and adult facilities are located in the same building or on the same grounds, each of the following four requirements initially set forth in the January 17, 1984 Federal Register (49 FR 2054-2055) must be met in order to ensure the requisite separateness of the two facilities. The requirements are:

(A) Total separation between juvenile and adult facility spatial areas such that there could be no haphazard or accidental contact between juvenile and adult residents in the respective facilities.

(B) Total separation in all juvenile and adult program activities within the facilities, including recreation, education, counseling, health care, dining, sleeping, and general living activities.

(C) Separate juvenile and adult staff, including management, security staff, and direct care staff such as recreation, education, and counseling. Specialized services staff, such as cooks, bookkeepers, and medical professionals who are not normally in contact with detainees or whose infrequent contacts occur under conditions of separation of juvenile and adults, can serve both.

(D) In States that have established State standards or licensing requirements for secure juvenile detention facilities, the juvenile facility meets the standards and is licensed as appropriate.

(ii) The State must initially determine that the four requirements are fully met. Upon such determination, the State must submit to OJJDP a request to concur with the State finding that a separate juvenile facility exists. To enable OJJDP to assess the separateness of the two facilities, sufficient documentation must accompany the request to demonstrate that each requirement is met.

(4) For those States that have achieved "substantial compliance" with section 223(a)(14) as specified in section 223(c) of the Act, document the unequivocal commitment to achieving full compliance.

(5) Those States which, based upon the most recently submitted monitoring report, have been found to be in full compliance with section 223(a)(14) may, in lieu of addressing paragraphs (e)(1), (2), and (4) of this Section, provide an assurance that adequate plans and resources are available to maintain full compliance.

(f) *Monitoring of Jails, Detention Facilities and Correctional Facilities.*

(1) Pursuant to section 223(a)(15) of the JJDP Act, and except as provided by paragraph (f)(7) of this section, the State shall:

(i) Describe its plan, procedure, and timetable for annually monitoring jails, lockups, detention facilities, correctional facilities and non-secure facilities. The plan must at a minimum describe in detail each of the following tasks including the identification of the specific agency(s) responsible for each task.

(A) *Identification of Monitoring Universe:* This refers to the identification of all residential facilities which might hold juveniles pursuant to public authority and thus must be classified to determine if it should be included in the monitoring effort. This includes those facilities owned or operated by public and private agencies.

(B) *Classification of the Monitoring Universe:* This is the classification of all facilities to determine which ones should be considered as a secure detention or correctional facility, adult correctional institution, jail, lockup, or other type of secure or nonsecure facility.

(C) *Inspection of facilities:* Inspection of facilities is necessary to ensure an accurate assessment of each facility's classification and record keeping. The inspection must include: (1) A review of the physical accommodations to determine whether it is a secure or non-secure facility or whether adequate sight and sound separation between juvenile and adult offenders exists *and* (2) a review of the record keeping system to determine whether sufficient data are maintained to determine compliance with section 223(a)(12), (13) and/or (14).

(D) *Data Collection and Data Verification:* This is the actual collection and reporting of data to determine whether the facility is in compliance with the applicable requirement(s) of section 223(a)(12), (13) and/or (14) The length of the reporting period should be 12 months of data, but in no case less than 6 months. If the data is self-reported by the facility or is collected and reported by an agency other than the State agency designated pursuant to section 223(a)(1) of the JJDP Act, the plan must describe a statistically valid procedure used to verify the reported data.

(ii) Provide a description of the barriers which the State faces in implementing and maintaining a monitoring system to report the level of compliance with section 223(a)(12), (13), and (14) and how it plans to overcome such barriers.

(iii) Describe procedures established for receiving, investigating, and reporting complaints of violation of section 223(a)(12), (13), and (14). This should include both legislative and administrative procedures and sanctions.

(2) For the purposes of monitoring for compliance with section 223(a)(12)(A) of the Act a secure detention or correctional facility is any secure public or private facility used for the lawful custody of *accused* or adjudicated juvenile offenders or non-offenders, *or* used for the lawful custody of accused or convicted adult criminal offenders.

(3) *Valid Court Order.* For the purpose of determine whether a valid court order exists and a juvenile has been found to be in violation of that valid order all of the following conditions must be present prior to secure incarceration:

(i) The juvenile must have been brought into a court of competent jurisdiction and made subject to an order issued pursuant to proper authority. The order must be one which regulates future conduct of the juvenile.

(ii) The court must have entered a judgment and/or remedy in accord with established legal principles based on the facts after a hearing which observes proper procedures.

(iii) The juvenile in question must have received adequate and fair warning of the consequences of violation of the order at the time it was issued and such warning must be provided to the juvenile and to the juvenile's attorney and/or legal guardian in writing and be reflected in the court record and proceedings.

(iv) All judicial proceedings related to an alleged violation of a valid court order must be held before a court of competent jurisdiction. A juvenile accused of violating a valid court order may be held in secure detention beyond the 24-hour grace period permitted for a noncriminal juvenile offender under OJJDP monitoring policy, for protective purposes as prescribed by State law, or to assure the juvenile's appearance at the violation hearing, as provided by State law, if there has been a judicial determination based on a hearing during the 24-hour grace period that there is probable cause to believe the juvenile violated the court order. In such case the juveniles may be held pending a violation hearing for such period of time as is provided by State law, but in no event should detention prior to a violation hearing exceed 72 hours exclusive of nonjudicial days. A juvenile found in a violation hearing to have violated a court order may be held in a secure detention or correctional facility.

(v) Prior to and during the violation hearing the following full due process rights must be provided:

(A) The right to have the charges against the juvenile in writing served upon him a reasonable time before the hearing;

(B) The right to a hearing before a court;

(C) The right to an explanation of the nature and consequences of the proceeding;

(D) The right to legal counsel, and the right to have such counsel appointed by the court if indigent;

(E) The right to confront witnesses;

(F) The right to present witnesses;

(G) The right to have a transcript or record of the proceedings;

(H) The right of appeal to an appropriate court.

(vi) In entering any order that directs or authorizes disposition of placement in a secure facility, the judge presiding over an initial probable cause hearing or violation hearing must determine that all the elements of a valid court order (paragraphs (f)(3)(i), (ii) and (iii) of this section) and the applicable due process rights (paragraph (f)(3)(v) of this section) were afforded the juvenile and, in the case of a violation hearing, the judge must determine that there is no less restrictive alternative appropriate to the needs of the juvenile and the community.

(vii) A non-offender such as a dependent or neglected child cannot be placed in secure detention or correctional facilities for violating a valid court order.

(4) *Removal Exception {Section 223(a)(14)}.* The following conditions must be met in order for an accused juvenile criminal-type offender, awaiting an initial court appearance, to be detained up to 24 hours (excluding weekends and holidays) in an adult jail or lockup:

(i) The State must have an enforceable State law requiring an initial court appearance within 24 hours after being taken into custody (excluding weekends and holidays);

(ii) The geographic area having jurisdiction over the juvenile is outside a metropolitan statistical area pursuant to the Bureau of Census' current designation;
(iii) A determination must be made that there is not existing acceptable alternative placement for the juvenile pursuant to criteria developed by the State and approved by OJJDP;
(iv) The adult jail or lockup must have been certified by the State to provide for the sight and sound separation of juveniles and incarcerated adults; and
(v) The State must provide documentation that the conditions in paragraphs (f)(4)(i) through (iv) of this Section have been met and received prior approval from OJJDP. In addition, OJJDP strongly recommends that jails and lockups which incarcerate juveniles pursuant to this exception be required to provide continuous visual supervision of juveniles incarcerated pursuant to this exception.
(vi) Pursuant to section 223(a)(14) of the JJDP Act, the non-MSA (low population density) exception to the jail and lockup removal requirement described in paragraphs (f)(4)(i) through (v) of this section shall remain in effect through 1993.

(5) *Reporting Requirement.* The State shall report annually to the Administrator of OJJDP on the results of monitoring for section 223(a)(12), (13), and (14) of the JJDP Act. The reporting period should provide 12 months of data, but shall not be less than 6 months. Three copies of the report shall be submitted to the Administrator of OJJDP no later than December 31 of each year.
(i) To demonstrate the extent of compliance with section 223(a)(12)(A) of the JJDP Act, the report must at least include the following information for both the baseline and the current reporting periods.
(A) Dates of baseline and current reporting period.
(B) Total number of public and private secure detention and correctional facilities AND the number inspected on-site.
(C) Total number of accused status offenders and non-offenders held in any secure detention or correctional facility as defined in §31.303(f)(2) for longer than 24 hours (not including weekends and holidays), excluding those held pursuant to the valid court order provision as defined in paragraph (f)(3) of this section.
(D) Total number of adjudicated status offenders and non-offenders held in any secure detention or correctional facility as defined in §31.303(f)(2), excluding those held pursuant to the valid court order provision as defined in paragraph (f)(3) of this section.
(E) Total number of status offenders held in any secure detention or correctional facility pursuant to a judicial determination that the juvenile violated a valid court order as defined in paragraph (f)(3) of this section.
(ii) To demonstrate the extent to which the provisions of section 223(a)(12)(B) of the JJDP Act are being met, the report must include the total number of accused and adjudicated status offenders and non-offenders placed in facilities that are:
(A) Not near their home community;
(B) Not the least restrictive appropriate alternative; and
(C) Not community-based.
(iii) To demonstrate the progress toward and extent of compliance with section 223(a)(13) of the JJDP Act, the report must at least include the following information for both the baseline and the current reporting periods.
(A) Designated date for achieving full compliance.
(B) The total number of facilities used to detain or confine both juvenile offenders and adult criminal offenders during the past 12 months AND the number inspected on-site.
(C) The total number of facilities used for secure detention and confinement of both juvenile offenders and adult criminal offenders which did not provide adequate separation.
(D) The total number of juvenile offenders and non-offenders NOT adequately separated in facilities used for the secure detention and confinement of both juveniles and adults.

(iv) To demonstrate the progress toward and extent of compliance with section 223(a)(14) of the JJDP Act the report must at least include the following information for the baseline and current reporting periods:
(A) Dates of baseline and current reporting period.
(B) Total number of adult jails in the State AND the number inspected on-site.
(C) Total number of adult lockups in the State AND the number inspected on-site.
(D) Total number of adult jails holding juveniles during the past twelve months.
(E) Total number of adult lockups holding juveniles during the past twelve months.
(F) Total number of adult jails and lockups in areas meeting the "removal exception" as noted in paragraph (f)(4) of this section, including a list of such facilities and the county or jurisdiction in which it is located.
(G) Total number of juvenile criminal-type offenders held in adult jails in excess of six hours.
(H) Total number of juvenile criminal-type offenders held in adult lockups in excess of six hours.
(I) Total number of accused and adjudicated status offenders and non-offenders held in any adult jail or lockup.
(J) Total number of juveniles accused of a criminal-type offense who were held in excess of six hours but less than 24 hours in adult jails and lockups in areas meeting the "removal exception" as noted in paragraph (f)(4) of this section.

(6) *Compliance*. The State must demonstrate the extent to which the requirements of section 223(a)(12)(A), (13), and (14) of the Act are met. Should the State fail to demonstrate compliance with the requirements of this Section within designated time frames, eligibility for formula grant funding shall terminate. The compliance levels are:
(i) *Substantial compliance* with section 223(a)(12)(A) requires within three years of initial plan submission achievement of a 75% reduction in the aggregate number of status offenders and non-offenders held in secure detention or correctional facilities or removal of 100% of such offenders from secure correctional facilities only. In addition, the State must make an unequivocal commitment, through appropriate executive or legislative action, to achieving full compliance within two additional years. *Full compliance* is achieved when a State has removed 100% of such juveniles from secure detention and correctional facilities or can demonstrate full compliance with *de minimis* exceptions pursuant to the policy criteria contained in the Federal Register of January 9, 1981 (46 FR 2566-2569).
(ii) *Compliance* with section 223(a)(13) has been achieved when a State can demonstrate that:
(A) The last submitted monitoring report, covering a full 12 months of data, demonstrates that no juveniles were incarcerated in circumstances that were in violation of section 223(a)(13); or
(B) (1) State law, regulation, court rule, or other established executive or judicial policy clearly prohibits the incarceration of all juvenile offenders in circumstances that would be in violation of section 223(a)(13);
(2) All instances of noncompliance reported in the last submitted monitoring report were in violation of, or departures from, the State law, rule, or policy referred to in paragraph (f)(6)(ii)(B)(1) of this section;
(3) The instances of noncompliance do not indicate a pattern or practice but rather constitute isolated instances; and
(4) Existing mechanisms for the enforcement of the State law, rule, or policy referred to in paragraph (f)(6)(ii)(B)(1) of this section are such that the instances of noncompliance are unlikely to recur in the future.
(iii) (A) Substantial compliance with section 223(a)(14) requires:
(1) The achievement of a 75% reduction in the number of juveniles held in adult jails and lockups after December 8, 1985; or
(2) That a state demonstrate it has met each of the standards set forth in paragraphs (f)(6)(iii)(A)(2)(i)-(iv) of this section:
(i) Removed all status and nonoffender juveniles from adult jails and lockups. Compliance with this standard requires that the last submitted monitoring

report demonstrate that no status offender (including those accused of or adjudicated for violating a valid court order) or nonoffender juveniles were securely detained in adult jails or lockups for any length of time; or, that all status offenders and nonoffenders securely detained in adult jails and lockups for any length of time were held in violation of an enforceable state law and did not constitute a pattern or practice within the state;

(ii) Made meaningful progress in removing other juveniles from adult jails and lockups. Compliance with this standard requires the state to document a significant reduction in the number of jurisdictions securely detaining juvenile criminal-type offenders in violation of section 223(a)(14) of the JJDP Act; or, a significant reduction in the number of facilities securely detaining such juveniles; or, a significant reduction in the number of juvenile criminal-type offenders securely detained in violation of section 223(a)(14) of the JJDP Act; or, a significant reduction in the average length of time each juvenile criminal-type offender is securely detained in an adult jail or lockup; or, that state legislation has recently been enacted and taken effect and which the state demonstrates will significantly impact the secure detention of juvenile criminal-type offenders in adult jails and lockups;

(iii) Diligently carried out the state's jail and lockup removal plan approved by OJJDP. Compliance with this standard requires that actions have been undertaken to achieve the state's jail and lockup removal goals and objectives within approved timelines, and that the State Advisory Group, required by section 223(a)(3) of the JJDP Act, has maintained an appropriate involvement in developing and/or implementing the state's plan;

(iv) Historically expended and continues to expend an appropriate and significant share of its Formula Grant funds to comply with Section 223(a)(14). Compliance with this standard requires that, based on an average from two (2) Formula Grant Awards, a minimum of 40 percent of the program funds was expended to support jail and lockup removal programs; or that the state provides a justification which supports the conclusion that a lesser amount constituted an appropriate and significant share because the state's existent jail and lockup removal barriers did not require a larger expenditure of Formula Grant Program funds; and

(3) The state has made an unequivocal commitment, through appropriate executive or legislative action, to achieving full compliance within a reasonable time but in no event may such time extend beyond December 8, 1988.

(B) Full compliance is achieved when a state demonstrates that the last submitted monitoring report, covering 12 months of actual data, demonstrates that no juveniles were held in adult jails or lockups in circumstances that were in violation of section 223(a)(14).

(C) Full compliance with de minimis exceptions is achieved when a state demonstrates that it has met the standard set forth in either of paragraphs (f)(6)(iii)(C)(1) or (2) of this section:

(1) *Substantive De Minimis Standard.* To comply with this standard the state must demonstrate that each of the following requirements have been met:

(i) State law, court rule, or other statewide executive or judicial policy clearly prohibits the detention or confinement of all juveniles in circumstances that would be in violation of section 223(a)(14);

(ii) All instances of noncompliance reported in the last submitted monitoring report were in violation of or departures from, the state law, rule, or policy referred to in paragraph (f)(6)(iii)(C)(1)(i) of this section;

(iii) The instances of noncompliance do not indicate a pattern or practice but rather constitute isolated instances;

(iv) Existing mechanisms for the enforcement of the state law, rule or policy referred to in paragraph (f)(6)(iii)(C)(1)(i) of this section are such that the instances of noncompliance are unlikely to recur in the future; and

(v) An acceptable plan has been developed to eliminate the noncompliant

incidents and to monitor the existing mechanism referred to in paragraph (f)(6)(iii)(C)(1)(iv) of this section.

(2) *Numerical De Minimis Standard.* To comply with this standard the state must demonstrate that each of the following requirements under paragraphs (f)(6)(iii)(C)(2)(i) and (ii) of this section have been met:

(I) The incidents of noncompliance reported in the state's last submitted monitoring report do not exceed an annual rate of 9 per 100,000 juvenile population of the state;

(ii) An acceptable plan has been developed to eliminate the noncompliant incidents through the enactment or enforcement of state law, rule, or statewide executive or judicial policy, education, the provision of alternatives, or other effective means.

(iii) Exception. When the annual rate for a state exceeds 9 incidents of noncompliance per 100,000 juvenile population, the state will be considered ineligible for a finding of full compliance with de minimis exceptions under the numerical de minimis standard unless the state has recently enacted changes in state law which have gone into effect and which the state demonstrates can reasonably be expected to have a substantial, significant and positive impact on the state's achieving full (100%) compliance or full compliance with de minimis exceptions by the end of the monitoring period immediately following the monitoring period under consideration.

(iv) Progress. Beginning with the monitoring report due by December 31, 1990, any state whose prior full compliance status is based on having met the numerical de minimis standard set forth in paragraph (f)(6)(iii)(C)(2)(i) of §31.303, must annually demonstrate, in its request for a finding of full compliance with de minimis exceptions, continued and meaningful progress toward achieving full (100%) compliance in order to maintain eligibility for a continued finding of full compliance with de minimis exceptions.

(v) Request Submission. Determinations of full compliance and full compliance with de minimis exceptions are made annually by OJJDP following submission of the monitoring report due by December 31 of each calendar year. Any state reporting less than full (100%) compliance in any annual monitoring report may request a finding of full compliance with de minimis exceptions under paragraph (f)(6)(iii)(C)(1) or (2) of this section. The request may be submitted in conjunction with the monitoring report, as soon thereafter as all information required for a determination is available, or be included in the annual state plan and application for the state's Formula Grant Award.

(D) *Waiver.*

(1) Failure to achieve substantial compliance as defined in this section shall terminate any state's eligibility for Formula Grant funds unless the Administrator of OJJDP waives termination of the state's eligibility. In order to be eligible for a waiver of termination, a state must submit a waiver request which demonstrates that it meets the standards set forth in paragraph (f)(6)(iii)(D)(1)(i)-(v) of this section:

(i) Agrees to expend all of its Formula Grant Award except planning and administration, advisory group set aside, and Indian-tribe pass-through funds, to achieve compliance with section 223(a)(14); and

(ii) Diligently carried out the state's jail and lockup removal plan as set forth in paragraph (f)(6)(iii)(A)(2)(iii) of this section; and

(iii) Submitted an acceptable plan, based on an assessment of current jail and lockup removal barriers within the state, to eliminate noncompliant incidents; and

(iv) Achieved compliance with section 223(a)(15) of the JJDP Act; and

(v) Demonstrates a commitment, through appropriate executive or legislative action, to achieving full compliance.

(2) Failure to achieve full compliance as defined in this section shall terminate any state's eligibility for Formula Grant funds unless the Administrator of OJJDP waives termination of the state's eligibility. In order to be eligible for this waiver of termination, a state must request a waiver and demonstrate that it meets the standards set forth in paragraphs (f)(6)(iii)(D)(2)(i)-(vii) of this section:
(i) Agrees to expend all of its Formula Grant Award except planning and administration, advisory group set aside, and Indian tribe pass-through funds, to achieve compliance with section 223(a)(14); and
(ii) Removed all status and nonoffender juveniles from adult jails and lockups as set forth in paragraph (f)(6)(iii)(A)(2)(i) of this section; and
(iii) Made meaningful progress in removing other juveniles from adult jails and lockups as set forth in paragraphs (f)(6)(iii)(A)(2)(ii) of this section; and
(iv) Diligently carried out the state's jail and lockup removal plan as set forth in paragraph (f)(6)(iii)(A)(2)(iii) of this section; and
(v) Submitted an acceptable plan, based on a assessment of current jail and lockup removal barriers within the state, to eliminate noncompliant incidents; and
(vi) Achieved compliance with section 223(a)(15) of the JJDP Act; and
(vii) Demonstrates a commitment, through appropriate executive or legislative action, to achieving full compliance.

(E) Waiver Maximum. A state may receive a waiver of termination of eligibility from the Administrator under paragraph (f)(6)(iii)(D)(1) and (2) of this section for a combined maximum of three Formula Grant Awards. No additional waivers will be granted.

(7) *Monitoring Report Exceptions*. States which have been determined by the OJJDP Administrator to have achieved full compliance with section 223(a)(12)(A) and compliance with section 223(a)(13) of the JJDP and which wish to be exempted from the annual monitoring report requirements must submit a written request to the OJJDP Administrator which demonstrates that:
(i) The State provides for an adequate system of monitoring jails, detention facilities, correctional facilities, and non-secure facilities to enable an annual determination of State compliance with section 223(a)(12)(A), (13), and (14) of the JJDP Act;
(ii) State legislation has been enacted which conforms to the requirements of section 223(a)(12)(A) and (13) of the JJDP Act; and
(iii) The enforcement of the legislation is statutorily or administratively prescribed, specifically providing that:
(A) Authority for enforcement of the statute is assigned;
(B) Time frames for monitoring compliance with the statute are specified; and
(C) Adequate sanctions and penalties that will result in enforcement of statute and procedures for remedying violations are set forth.

(g) *Juvenile Crime Analysis*. Pursuant to section 223(a)(8)(A) and (B), the state must conduct an analysis of juvenile crime problems, including juvenile gangs that commit crimes, and juvenile justice and delinquency prevention needs within the state, including those geographical areas in which an Indian tribe performs law enforcement functions.
(1) *Analysis*. The analysis must be provided in the multiyear application. **A suggested format for the analysis is provided in the Formula Grant Application Kit.**
(2) *Product*. The product of the analysis is a **series of brief written problem** statements set forth in the application that define and describe the priority problems.
(3) *Programs*. Applications are to include descriptions of programs to be supported with JJDP Act formula grant funds. A suggested format for these programs is included in the application kit.
(4) *Performance Indicators*. A list of performance indicators must be developed and set forth for each program. These indicators show what data will be collected at the program level to measure whether objectives and performance goals have been achieved and should related to the measures used in the problem statement and statement of program objectives.

(h) *Annual Performance Report.* Pursuant to section 223(a) and section 223(a)(22) the State plan shall provide for submission of an annual performance report. The State shall report on its progress in the implementation of the approved programs, described in the three-year plan. The performance indicators will serve as the objective criteria for a meaningful assessment of progress toward achievement of measurable goals. The annual performance report shall describe progress made in addressing the problems of serious juvenile crime, as documented in the juvenile crime analysis pursuant to section 223(a)(8)(A).

(i) *Technical Assistance.* States shall include, within their plan, a description of technical assistance needs. Specific direction regarding the development and inclusion of all technical assistance needs and priorities will be provided in the "Application Kit for Formula Grants under the JJDPA."

(j) *Minority Detention and Confinement.* Pursuant to section 223(a)(23) of the JJDP Act, states must address efforts to reduce the proportion of juveniles detained or confined in secure detention facilities, secure correctional facilities, jails and lockups who are members of minority groups if such proportion exceeds the proportion such groups represent in the general population, viz., youth at risk for secure confinement. It is important for states to approach this in a comprehensive manner. Compliance with this provision is achieved when a state has met the requirements set forth in paragraphs (j)(1)-(3) of this section:

(1) Provide documentation in the State Plan Juvenile Crime Analysis to indicate whether minority juveniles are disproportionately detained or confined in secure detention or correctional facilities, jails, or lockups in relation to their proportion of the at risk youth population;

(2) Where documentation is unavailable, or demonstrates that minorities are disproportionately detained or confined in relation to their proportion in the at risk youth population, states must provide a strategy for addressing the disproportionate representation of minority juveniles in the juvenile justice system, including but not limited to:

(i) Assessing the differences in arrest, diversion, and adjudication rates, court dispositions other than incarceration, and the rates and periods of commitment to secure facilities of minority youth and non-minority youth in the juvenile justice system;

(ii) Increasing the availability and improving the quality of diversion programs for minorities who come in contact with the juvenile justice system such as police diversion programs;

(iii) Providing support for prevention programs in communities with a high percentage of minority residents with emphasis upon support for community-based organizations that serve minority youth;

(iv) Providing support for reintegration programs designed to facilitate reintegration and reduce recidivism of minority youths;

(v) Initiate or improve the usefulness of relevant information systems and disseminate information regarding minorities in the juvenile justice system.

(3) Each state is required to submit a supplement to the 1988 Multi-Year Plan for addressing the extent of disproportionate representation of minorities in the juvenile justice system. This supplement, which will be submitted as a component of the 1989 Formula Grant Application and Multi-Year Plan Update, must include the state's assessment of disproportionate minority representation, and a workplan for addressing this issue programmatically. Where data is insufficient to make a complete assessment, the workplan must include provisions for improving the information collection systems. **The workplan, once approved by OJJDP, is to be implemented as a component of the state's 1990 Formula** Grant Plan.

(4) **For purposes of this plan requirement, minority populations are defined as members of the following groups: Asian Pacific Islanders, Blacks, Hispanics, and, American Indians.**

(k) Pursuant to section 223(a)(24) of the JJDP Act, states shall agree to other terms and conditions as the Administrator may reasonably prescribe to assure the effectiveness of programs assisted under the Formula Grant.

§31.304 Definitions.

(a) *Private agency.* A private non-profit agency, organization or institution is:
(1) Any corporation, foundation, trust, association, cooperative, or accredited institution of higher education not under public supervision or control; and
(2) Any other agency, organization or institution which operates primarily for scientific, education, service, charitable, or similar public purposes, but which is not under public supervision or control, and no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or individual, and which has been held by IRS to be tax-exempt under the provisions of section 501(c)(3) of the 1954 Internal Revenue Code.

(b) *Secure.* As used to define a detention or correctional facility this term includes residential facilities which include construction fixtures designed to physically restrict the movements and activities of persons in custody such as locked rooms and buildings, fences, or other physical structures. It does not include facilities where physical restriction of movement or activity is provided solely through facility staff.

(c) *Facility.* A place, an institution, a building or part thereof, set of buildings or an area whether or not enclosing a building or set of buildings which is used for the lawful custody and treatment of juveniles and may be owned and/or operated by public and private agencies.

(d) *Juvenile who is accused of having committed an offense.* A juvenile with respect to whom a petition has been filed in the juvenile court or other action has occurred alleging that such juvenile is a juvenile offender, i.e., a criminal-type offender or a status offender, and no final adjudication has been made by the juvenile court.

(e) *Juvenile who has been adjudicated as having committed an offense.* A juvenile with respect to whom the juvenile court has determined that such juvenile is a juvenile offender, i.e., a criminal-type offender or a status offender.

(f) *Juvenile offender.* An individual subject to the exercise of juvenile court jurisdiction for purposes of adjudication and treatment based on age and offense limitations by defined as State law, i.e., a criminal-type offender or a status offender.

(g) *Criminal-type offender.* A juvenile offender who has been charged with or adjudicated for conduct which would, under the law of the jurisdiction in which the offense was committed, be a crime if committed by an adult.

(h) *Status offender.* A juvenile offender who has been charged with or adjudicated for conduct which would not, under the law of the jurisdiction in which the offense was committed, be a crime if committed by an adult.

(i) *Non-offender.* A juvenile who is subject to the jurisdiction of the juvenile court, usually under abuse, dependency, or neglect statutes for reasons other than legally prohibited conduct of the juvenile.

(j) *Lawful custody.* The exercise of care, supervision and control over a juvenile offender or non-offender pursuant to the provisions of the law or of a judicial order or decree.

(k) *Other individual accused of having committed a criminal offense.* An individual, adult or juvenile, who has been charged with committing a criminal offense in a court exercising criminal jurisdiction.

(l) *Other individual convicted of a criminal offense.* An individual, adult or juvenile, who has been convicted of a criminal offense in court exercising criminal jurisdiction.

(m) *Adult jail.* A locked facility, administered by State, county or local law enforcement and correctional agencies, the purpose of which is to detain adults charged with violating criminal law, pending trial. Also considered as adult jails are those facilities used to hold convicted adult criminal offenders sentenced for less than one year.

(n) *Adult lockup.* Similar to an adult jail except that an adult lockup is generally a municipal or police facility of a temporary nature which does not hold persons after they have been formally charged.

(o) *Valid Court Order.* The term means a court order given by a juvenile court judge to a juvenile who has been brought before the court and made subject to a court order. The use of the word "valid" permits the incarceration of juveniles for violation of a valid court order only if they received their full due process rights as guaranteed by the Constitution of the United States.

(p) *Local Private Agency.* For the purposes of the pass-through requirement of section 223(a)(5), a local private agency is defined as a private non-profit agency or organization that provides program services within an identifiable unit or a combination of units of general local government.

Subpart E—General Conditions and Assurances

§31.400 Compliance with statute.

The applicant State must assure and certify that the State and its subgrantees and contractors will comply with applicable provisions of the Omnibus Crime Control and Safe Streets Act of 1968, Pub. L. 90-351, as amended, and with the provisions of the Juvenile Justice and Delinquency Prevention Act of 1974, Pub. L. 93-415, as amended, and the provisions of the current edition of OJP Financial and Administrative Guide for Grants, M7100.1.

§31.401 Compliance with other Federal laws, orders, circulars.

The applicant State must further assure and certify that the State and its subgrantees and contractors will adhere to other applicable Federal laws, orders and OMB circulars. These general Federal laws and regulations are described in greater detail in the Financial and Administrative Guide for Grants, M7100.1, and the Formula Grant Application Kit.

§31.402 Application on file.

Any Federal funds awarded pursuant to an application must be distributed and expended pursuant to and in accordance with the programs contained in the applicant State's current approved application. Any departures therefrom, other than to the extent permitted by current program and fiscal regulations and guidelines, must be submitted for advance approved by the Administrator of OJJDP.

§31.403 Non-discrimination.

The State assures that it will comply, and that subgrantees and contractors will comply, with all applicable Federal non-discrimination requirements, including:

(a) Section 809(c) of the Omnibus Crime Control and Safe Streets Act as 1968, as amended, and made applicable by Section 292(a) of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended;
(b) Title VI of the Civil Rights Act of 1964;
(c) Section 504 of the Rehabilitation Act of 1973, as amended;
(d) Title IX of the Education Amendments of 1972;

(e) The Age Discrimination Act of 1975; and
(f) The Department of Justice Non-discrimination Regulations, 28 CFR Part 42, Subparts, C, D, E, and G.

Administrator, Office of Juvenile Justice
and Delinquency Prevention

Friday
January 9, 1981

Part VII

Department of Justice

Office of Juvenile Justice and Delinquency Prevention

Policy and Criteria for de Minimis Exceptions to Full Compliance With Deinstitutionalization Requirement of Juvenile Justice and Delinquency Prevention Act

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

Policy and Criteria for de Minimis Exceptions to Full Compliance With Deinstitutionalization Requirement of the Juvenile Justice and Delinquency Prevention Act, 1974, as Amended

AGENCY: Office of Juvenile Justice and Delinquency Prevention (OJJDP).

ACTION: Issuance of final policy.

SUMMARY: Notice is hereby given that the Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice, pursuant to the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, 42 U.S.C. 5601, et seq., (JJDP Act), is issuing a policy and criteria for determining full compliance with de minimis exceptions to the deinstitutionalization requirement of Section 223(a)(12)(A) of the JJDP Act, as amended.

SUPPLEMENTARY INFORMATION: Section 223(a)(12)(A) of the JJDP Act requires that states participating in the Formula Grant Program (Part B, Subpart I), of the JJDP Act "provide within three years after submission of the initial plan that juveniles who are charged with or who have committed offenses that would not be criminal if committed by an adult or offenses which do not constitute violations of valid court orders, or such non-offenders as dependent or neglected children, shall not be placed in secure detention facilities or secure correctional facilities." Section 223(c) of the Act further provides that failure to achieve compliance with the Section 223(a)(12)(A) requirement within the three-year limitation shall terminate a State's eligibility for formula grant funding unless a determination is made that the State is in substantial compliance, through achievement of deinstitutionalization of not less than 75 percent of such juveniles or through removal of 100 percent of such juveniles from secure correctional facilities and has made an unequivocal commitment to achieving full compliance within two additional years. The Agency's Office of General Counsel, in Legal Opinion 76-7, October 7, 1975, indicated that a State's failure to meet the full compliance requirement within the statutorily designated time-frame would result in future ineligibility for Formula Grants unless such failure was de minimis. The opinion further stated that such determinations would be made on a case-by-case basis.

OJJDP published in the August 14, 1980, Federal Register a proposed policy and criteria for de minimis exceptions to full compliance. That publication provided interested persons the opportunity to submit comments and recommendations on the proposed criteria. A total of 15 comments were received and analyzed. The responses included comments from 15 of the 50 states participating in the JJDP Act Formula Grant program. Appendix A provides additional information regarding the review and analysis of these comments. OMB Circular No. A-95, regarding State and Local Clearinghouse review of Federal and Federally-assisted programs and projects, is not applicable to the issuance of this policy. This policy is specifically applicable to Program No. 16.540, Juvenile Justice and Delinquency Prevention Allocation to States, within the Catalog of Federal Domestic Assistance.

Policy and Criteria for de Minimis Exceptions to Full Compliance With Section 223(a)(12)(A) of the JJDP Act

The following provides the Office of Juvenile Justice and Delinquency Prevention policy for the determination of State compliance with Section 223(a)(12)(A) of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended (42 U.S.C. 5601 *et seq.*). The criteria presented below will be applied in determining whether a State has achieved full compliance, with de minimis exceptions, with the above cited deinstitutionalization requirement of the Juvenile Justice Act. Also specified is the information which each state must provide in response to each criterion when seeking from OJJDP a finding of full compliance with de minimis exceptions.

States requesting a finding of full compliance with de minimis exceptions should submit the request at the time the annual monitoring report is submitted or as soon thereafter as all information required for a determination is available. For those States that have participated in the formula grant program continuously since 1975 such a request, if needed, would be due December 31, 1980, because that is the first monitoring report due after five years of participation. States that had extremely low rates of institutionalization when they began participation in the program are eligible to request a finding of full compliance with de minimis exceptions after three years of participation in lieu of demonstrating a 75% reduction from the number of status and non-offenders institutionalized in their base year.

Background

Office of General Counsel Legal Opinion 76-7, October 7, 1975, establishes that a State's "good faith" effort to meet the (then) two year requirement for deinstitutionalization of status offenders would preclude the imposition of sanctions with regard to funds already granted to the State under the formula grant program. However, a State's "good faith" effort cannot be considered in determining whether the statutory minimum compliance level has been met. In terms of eligibility for funding the opinion concluded:

> A State's failure to met the Section 223(a)(12) requirement within a maximum of two years from the date of submission of the initial plan would result in future fund cut-off unless such failure was de minimis. These determinations would be made on a case-by-case basis.

Subsequent amendments to the Juvenile Justice Act in 1977 modified Section 223(a)(12) to require full compliance within three years. However, Section 223(c) was also amended to provide that if a State was in substantial compliance with the modified Section 223(a)(12)(A) provision at the end of three years, substantial compliance being defined as a 75 percent reduction in the number of status offenders held in juvenile detention or correctional facilities, then the State could be given up to two additional years to achieve full compliance.

Thus, this opinion provides the legal basis for the OJJDP to utilize the de minimis principle, i.e., by disregarding instances of non-compliance that are of slight consequence or insignificant, in making a determination regarding a state's full compliance with Section 223(a)(12)(A) of the Act.

Parameters

The legal concept of de minimus, meaning "the law cares not for small things," is generally applied where small, insignificant or infinitesimal matters are at issue. Whether a matter, such as the number of status offenders and non-offenders held in non-compliance with Section 223(a)(12)(A), can be characterized as de minimis cannot be determined by an inflexible formula. Therefore, OJJDP will consider each case on its merits based on criteria which take into consideration relative numbers, circumstances of non-compliance, and State law and policy. The establishment of these criteria is intended to achieve an equitable determination process. States reporting significant numbers of institutionalized status and non-offenders should not

expect a finding of full compliance with de minimus exceptions. In determining whether a State has achieved substantial compliance within three years, OJJDP must compare the number of status and non-offenders held in non-compliance with Section 223(a)(12)(A) at the conclusion of the three year period with the number of status and non-offenders held at the start of the three year period (the State's baseline figure). However, in determining whether a State is in full compliance with de minimis exceptions, OJJDP does not consider a comparison of the current situation to baseline to be relevant. Only data and information which accurately and completely portrays the current situation is relevant when demonstrating full compliance with de minimus exceptions.

Individual states must continue to show progress toward achieving 100 percent compliance in order to maintain eligibility for a finding of full compliance with de minimis exceptions.

Criteria and Required Information

The OJJDP has determined that the following criteria will be applied in making a determination of whether a State has demonstrated full compliance with Section 223(a)(12)(A) with de minimis exceptions. While States are not necessarily required to meet each criterion at a fully satisfactory level, OJJDP will consider the extent to which each criterion has been met in making its determination of whether the State is in full compliance with the minimis exceptions. The information following each criterion must be provided to enable OJJDP to make this determination.

Criterion A

The extent of non-compliance is insignificant or of slight consequence in terms of the total juvenile population in the State.

In applying this criterion OJJDP will compare the State's status offender and non-offender detention and correctional institutionalization rate per 100,000 population under age 18 to the average rate that has been calculated for eight states (e.g., two states from each of the four Bureau of Census regions). The eight states selected by OJJDP were those having the smallest institutionalization rate per 100,000 population *and* which also had an adequate system of monitoring for compliance. By applying this procedure and utilizing the information provided by the eight states' most recently submitted monitoring reports, OJJDP determined that eight states' average annual rate was 17.6 incidences of status offenders and non-offenders held per 100,000 population under age 18. In computing the standard deviation from the mean of 17.6, it was determined that a rate of 5.8 per 100,000 was one standard deviation below the mean and 29.4 per 100,000 was one standard deviation above the mean. Therefore, in applying Criterion A, states which have an institutionalization rate less than 5.8 per 100,000 population will be considered to be in full compliance with de minimis exceptions and will not be required to address Criteria B and C. Those states whose rate falls between 17.6 and 5.8 per 100,000 population will be eligible for a finding of full compliance with de minimis exceptions if they adequately meet Criteria B and C. Those states whose rate is above the average of 17.6 but does not exceed 29.4 per 100,000 will be eligible for a finding of full compliance with de minimis exceptions only if they full satisfy Criteria B and C. Finally, those states which have a placement rate in excess of 29.4 per 100,000 population are presumptively ineligible for a finding of full compliance with de minimis exceptions because any rate above that level is considered to represent an excessive and significant level of status offenders and non-offenders held in juvenile detention or correctional facilities.

However, OJJDP will consider requests from such States where the State demonstrates exceptional circumstances which account for the excessive rate. Exceptional circumstances are limited to situations where, but for the exceptional circumstance, the State's institutionalization rate would be within the 29.4 rate established above.

The following will be recognized for consideration as exceptional circumstances:

(1) Out of State runaways held beyond 24 hours in response to a want, warrant, or request from a jurisdiction in another State or pursuant to a court order, solely for the purpose of being returned to proper custody in the other State;

(2) Federal wards held under Federal statutory authority in a secure State or local detention facility for the sole purpose of affecting a jurisdictional transfer, appearance as a material witness, or for return to their lawful residence or country of citizenship; and

(3) A State has recently enacted changes in State law which have gone into effect and which the State demonstrates can be expected to have a substantial, significant, and positive impact on the State's achieving full compliance with the deinstitutionalization requirement within a reasonable time.

In order to make a determination that a State has demonstrated exceptional circumstances under (1) and (2) above, OJJDP will require that the State has developed a separate and specific plan under Criterion C which addresses the problem in a manner that will eliminate the non-compliant instances within a reasonable time.

OJJDP deems it to be of critical importance that all states seeking a finding of full compliance with de minimis exceptions demonstrate progress toward 100 percent compliance and continue to demonstrate progress annually in order to be eligible for a finding of full compliance with de minimis exceptions.

The following information must be provided in response to criterion A and must cover the most recent and available 12 months of data (calendar, fiscal, or other period) or available data for less than 12 months, projected to 12 months in a statistically valid manner. If data projection is used the state must provide the statistical method used, the actual reporting period by dates and the specific data used: States are encouraged to use and expand upon currently available monitoring data gathered for purposes of the annual monitoring report required by Section 223(a)(15).

1. Total number of *accused* status offenders and non-offenders held in secure detention facilities or secure correctional facilities in excess of 24 hours (per OJJDP monitoring policy).

2. Total number of *adjudicated* status offenders and non-offenders held in secure detention facilities or secure correctional facilities.

3. Total number of status offenders and non-offenders held in secure detention facilities or secure correctional facilities (i.e., sum of items 1 and 2).

4. Total juvenile population (under 18) of the State according to the most recent available U.S. Bureau of the Census data or census projections.

States may provide additional pertinent statistics that they deem relevant in determining the extent to which the number of non-compliant incidences is insignificant or of slight consequence. However, factors such as local practice, available resources, or organizational structure of local government will not be considered relevant by OJJDP in making this determination.

Criterion B

The extent to which the instances of non-compliance were in apparent

violation of State law or established executive or judicial policy.

The following information must be provided in response to criterion B and must be sufficient to make a determination as to whether the instances of non-compliance with Section 223(a)(12)(A) as reported in the State's monitoring report were in apparent violation of, or departures from, state law or established executive or judicial policy. OJJDP will consider this criterion to be satisfied by those States that demonstrate that all or substantially all of the instances of non-compliance were in apparent violation of, or departures from, state law or established executive or judicial policy. This is because such instances of non-compliance can more readily be eliminated by legal or other enforcement processes. The existence of such law or policy is also an indicator of the commitment of the State to the deinstitutionalization requirement and to future 100% compliance. Therefore, information should also be included on any newly established law or policy which can reasonably be expected to reduce the State's rate of institutionalization in the future.

1. A brief description of the non-compliant incidents must be provided with includes a statement of the circumstances surrounding the instances of non-compliance. (For example: Of 15 status offenders/non-offenders held in juvenile detention or correctional facilities during the 12 month period for State X, 3 were accused status offenders held in jail in excess of 24 hours, 6 were accused status offenders held in detention facilities in excess of 24 hours, 2 were adjudicated status offenders held in a juvenile correctional facility, 3 were accused status offenders held in excess of 24 hours in a diagnostic and evaluation facility, and 1 was an adjudicated status offender placed in a mental health facility pursuant to the court's status offenders jurisdiction.) Do not use actual names of juveniles.

2. Describe whether the instances of non-compliance were in apparent violation of State law or established executive or judicial policy.

A statement should be made for each circumstance discussed in item 1 above. A copy of the pertinent/applicable law or established policy should be attached. (for example: The 3 accused status offenders held in jail in excess of 24 hours were held in apparent violation of a State law which does not permit the placement of status offenders in jail under any circumstances. Attachment "X" is a copy of this law. The 6 status offenders held in juvenile detention were placed there pursuant to a disruptive behavior clause in our statute which allows status offenders to be placed in juvenile detention facilities for a period of up to 72 hours if their behavior in a shelter care facility warrants secure placement. Attachment "X" is a copy of this statute. A similar statement must be provided for each circumstance.)

Criterion C

The extent to which an acceptable plan has been developed which is designed to eliminate the non-compliant incidents within a reasonable time, where the instances of non-compliance either (1) indicate a pattern or practice, or (2) appear to be consistent with State law or established executive or judicial policy, or both.

If the State determines that instances of non-compliance (1) do not indicate a pattern or practice, *and* (2) are inconsistent with an in apparent violation of State law or established executive or judicial policy, then the State must explain the basis for this determination. In such case no plan would be required as a part of the request for a finding of full compliance under this policy.

The following must be addressed as elements of an acceptable plan for the elimination of non-compliance incidents that will result in the modification or enforcement of state law or executive or judicial policy to ensure consistency between the state's practices and the JJDP Act deinstitutionalization requirements.

1. If the instances of non-compliance are sanctioned by or consistent with State law or executive or judicial policy, then the plan must detail a strategy to modify the law or policy to prohibit non-compliant placement so that it is consistent with the Federal deinstitutionalization requirement.

2. If the instances of non-compliance were in apparent violation of State law or executive or judicial policy, but amount to or constitute a pattern or practice rather than isolated instances of non-compliance, the plan must detail a strategy which will be employed to rapidly identify violations and ensure the prompt enforcement of applicable State law or executive or judicial policy.

3. In addition, the plan must be targeted specifically to the agencies, courts, or facilities responsible for the placement of status offenders and non-offenders in non-compliance with Section 223(a)(12)(A). It must include a specific strategy to eliminate instances of non-compliance through statutory reform, changes in facility policy and procedure, modification of court policy and practice, or other appropriate means.

Implementation of Plan and Maintenance of Full Compliance

If OJJDP makes a finding that a State is in full compliance with de minimis exceptions based, in part, upon the submission of an acceptable plan under Criteria C above, the State will be required to include the plan as a part of its current or next submitted formula grant plan as appropirate. OJJDP will measure the State's success in implementing the plan by comparison of the data in the next monitoring report indicating the extent to which non-compliant incidences have been eliminated.

Determinations of full compliance status will be made annually by OJJDP following the submission of the monitoring report due by December 31st of each year. Any State reporting less than 100% compliance in any annual monitoring report would, therefore, be required to follow the above procedures in requesting a finding of full compliance with de minimis exceptions. An annual monitoring report will continue to be due by December 31st of each year.

FOR FURTHER INFORMATION CONTACT: Mr. Doyle A. Wood, Office of Juvenile Justice and Delinquency Prevention, 633 Indiana Avenue, NW, Washington, DC 20531. (202) 724-8491.

Ira M. Schwartz,

Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.

Appendix A—Supplemental Information: Review and Analysis of Comments in Response to Proposed Policy and Criteria

A total of 15 comments were received and included in the analysis. The response included comments from 15 of the 50 states participating in the formula grant program. All comments and recommendations were logged, reviewed and analyzed. The review and analysis consisted of recording each response as to whether or not a specific recommendation was presented. This recording effort was established to determine whether the respondent recommended each component of the policy and criteria to be: (1) retained, (2) eliminated, or (3) modified, or if no specific recommendation was made. The analysis also identified and recorded substantive responses for consideration during the revision process.

The results are presented according to each component of the proposed criteria.

Criterion (a)

"The extent of non-compliance is insignificant or of slight consequence in terms of the total juvenile population in the State"

In applying this criterion, a state's status offender and non-offender institutionalization rate per 100,000 population under age 18 will be compared to the average rate calculated for eight states. The eight states represent

two states from each of the four Bureau of Census regions having the smallest institutionalization rate *and* which also had an adequate monitoring system. The institutionalization rate is based on the data contained in the 1979 monitoring reports. The proposed criteria were initially developed before all 1979 reports were finalized and approved. Thus a recalculation, based upon all final 1979 reports, is reflected in the final policy. This recalculation resulted in a change of the eight state average annual rate from 15.8 to 17.6 incidences of status offenders and non-offenders held per 100,000 population under age 18. Also, the standard deviation below and above the mean is changed to 5.8 and 29.4 respectively. The eight states used in calculating the average rate include Massachusetts, Pennsylvania, Iowa, Wisconsin, Virginia, West Virginia, New Mexico and Washington. These states include both urban and rural states, states having an out-of-state runaway population, and states having an illegal alien and native American population.

Several comments were received which recommended exceptional circumstances which would justify a finding of full compliance with de minimis exceptions for any state which exceeded the rate of one standard deviation above the mean. Generally, the situations which states indicated should be exceptional circumstances include (1) states having recent changes in State law which will have substantial, significant, and positive impact on achieving full compliance (2) states which can document they did not achieve full compliance with de minimis exception because juveniles were held in State/local facilities who were Federal wards being held pursuant to Federal Codes, and (3) states which can document they did not achieve full compliance with de minimis exceptions because out-of-state runaways were being held pending return to their state of residence. As a result of these comments, criterion A was modified to delineate the acceptable exceptional circumstances and the conditions which must exist to enable a finding of full compliance.

The comment that a comparison should be made between the number of status offenders held and the number of youth charged with status offenders was not considered as an appropriate change because such comparison would reward states for charging an excessive number of youth with status offenses. The comment that states which can document a consistent decline in the rate of institutionalization should be eligible for a finding of full compliance, regardless of the absolute number held, is inconsistent with the intent of Congress to totally remove status offenders and non-offenders from inappropriate facilities within 5 years.

Five of the fifteen responses indicated the criteria go too far in giving an advantage to states which hold status offenders in secure facilities by allowing an excessive number to be held and still maintaining eligibility for a finding of full compliance. Several responders felt it was critically important that OJJDP not establish a policy which creates the impression that less than 100% compliance will satisfy the statutory requirement. The OJJDP is committed to the Congressional mandate to remove all status offenders and non-offenders from secure detention facilities and secure correctional facilities and under no circumstances should the de minimis policy and criteria be construed as a lessening of OJJDP's commitment to complete deinstitutionalization of youth under Section 223(a)(12)(A) of the JJDP Act.

Criterion (b)

"The extent to which the instances of non-compliance were in apparent violation of State law or established executive or judicial policy."

The information to be provided in response to this criterion is to demonstrate whether the instances of non-compliance with Section 223(a)(12)(A) were in apparent violation of state law or established executive or judicial policy or constitutes a pattern or practice. There were no substantial comments or recommendations on this criterion, thus the criterion is unchanged.

Criterion (c)

"The extent to which an acceptable plan has been developed which is designed to eliminate the non-compliant incidents within a reasonable time, where the instances of non-compliance either (1) indicate a pattern or practice, *or* (2) appear to be consistent with state law or established executive or judicial policy, or both."

The few comments on this criterion generally stated that plan elements one and three should be combined into a single element. The criterion has been modified to reflect these comments by combining these two plan components. Other comments which were received but did not result in a modification were that "the criterion should require the development of a plan even when there is no pattern or practice and when violations are inconsistent with state law and (2) the state can always develop a plan but implementation may be difficult thus some agreement as to what is practicable must be reached between the state and OJJDP." The review of the plan developed in response to this criteria and the negotiation, if necessary, between the state and OJJDP as to the viability and practicability of the plan will result in a mutual agreement as to what is expected from both parties. OJJDP technical assistance resources and capability will be available to assist states in the implementation of the states plan for 100% compliance.

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January 17, 1984

Part II

Department of Justice

Office of Juvenile and Delinquency Prevention

Position Statement on Minimum Requirements of Section 223(a)(14) of the JJDP Act, as Amended; Notice

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

...n Statement on Minimum Requirements of Section 223(a)(14) of the JJDP Act, as Amended

AGENCY: Office of Juvenile Justice and Delinquency Prevention.

ACTION: Notice of issuance of position statement on the minimum requirements of the jail removal mandate of Section 223(a)(14) of the Juvenile Justice and Delinquency Prevention (JJDP) Act, as amended.

SUMMARY: The Office of Juvenile Justice and Delinquency (OJJDP) is issuing a position statement on the minimum requirements of Section 223(a)(14) of the JJDP Act. The position statement addresses the jail removal requirements when a juvenile facility and an adult jail or lockup is in the same building or on the same grounds.

In determining whether or not a facility in which juveniles are detained or confined is an adult jail or lockup under the requirements of Section 223(a)(14), OJJDP will assess the separateness of the two facilities by determining whether four requirements contained in the position statement are

...MENTARY INFORMATION:

Position Statement: Minimum Requirements for Juvenile Justice and Delinquency Prevention Act, Section 223(a)(14) (Jail Removal)

I. Background

Section 223(a)(14) of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, requires States, as a condition for the receipt of formula grant funds, to "provide that . . . no juvenile shall be detained or confined in any jail or lockup for adults. . . ."

States have until December, 1985 to achieve compliance with this statutory provision. Section 223(c) of the Act allows two additional years, if substantial compliance is achieved by December, 1985.

The definitions of an adult jail and an adult lockup, as contained in 28 CFR Part 31, Subpart 31.304 (m) and (n), dated December 31, 1981, are:

Adult jail. A locked facility, administered by State, county, or local law enforcement and correctional agencies, the purpose of which is to detain adults charged with violating criminal law, pending trial. Also ...lered as adult jails are those ...es used to hold convicted adult criminal offenders sentenced for less than one year.

Adult Lockup. Similar to an adult jail except that an adult lockup is generally a municipal or police facility of a temporary nature which does not hold persons after they have been formally charged.

States and localities have told OJJDP that the application of the definition of an adult jail and lockup has presented difficulty where a separate juvenile detention facility and an adult jail or lockup share a common building or are on common grounds. To assist in resolving this issue an OJJDP position statement is being provided.

In determining whether removal, pursuant to the statute, has been accomplished when the juvenile and adult facilities are in a common building or on common grounds, OJJDP will, upon request by the State, assess whether the juvenile and adult facilities are separate; i.e., that there are separate structural areas, staffs, administrations, and programs.

Set forth below are requirements which will be used to determine acceptability in the event both juveniles and adults are detained in one physical structure. Additionally, while these requirements are mandatory, it is noted that special and unique conditions may allow deviations from the statute. Such conditions will be addressed on a case-by-case basis.

Following the statement of "MANDATORY REQUIREMENTS" is a discussion of factors which are recommended to the states and which will be used by OJJDP in determining whether the criteria have been met. In addition, OJJDP has available many standards, policies and conditions of juvenile detention which will help jurisdictions meet the norm of good practice, meet accreditation standards, and meet legal requirements associated with detaining juveniles. This information is available from OJJDP.

II. Mandatory Requirements

In determining whether or not a facility in which juveniles are detained or confined is an adult jail or lockup under the requirements of Section 223(a)(14), in circumstances where the juvenile and adult facilities are located in the same building or on the same grounds, each of the following four criteria must be met in order to ensure the requisite separateness of the two facilities:

A. Total separation between juvenile and adult facility spatial areas such that there could be no haphazard or accidental contact between juvenile and adult residents in the respective facilities.

B. Total separation in all juvenile and adult program activities within the facilities, including recreation, education, counseling, health care, dining, sleeping, and general living activities.

C. Separate juvenile and adult staff, including management, security staff, and direct care staff such as recreational, educational, and counseling. Specialized services staff, such as cooks, bookkeepers, and medical professionals who are not normally in contact with detainees or whose infrequent contacts occur under conditions of separation of juveniles and adults, can serve both.

D. In states that have established state standards or licensing requirements for secure juvenile detention facilities, the juvenile facility meets the standards and is licensed as appropriate.

III. Discussion

The four mandatory requirements must be fully met to ensure juveniles are not placed in, or subjected to, the same environment as adult offenders, thus meeting the minimum requirements of Section 223(a)(14) of the JJDP Act, as amended. In determining whether the criteria are met, the following list of factors is provided and will be used by OJJDP. Although the list is not exhaustive, it does enumerate conditions which enhance the separateness of juvenile and adult facilities when they are located in the same building or on the same grounds.

A. Juvenile staff are employee full-time by a juvenile service agency or the juvenile court with responsibility only for the conduct of the youth-serving operations. Juvenile staff are specially trained in the handling of juveniles and the special problems associated with this group.

B. A separate juvenile operations manual, with written procedures for staff and agency reference, specifies the function and operation of the juvenile program.

C. There is minimal sharing between the facilities of public lobbies or office/support space for staff.

D. Juveniles do not share direct service or access space with adult offenders within the facilities including entrance to and exit from the facilities. All juvenile facility intake, booking and admission processes take place in a separate area and are under the direction of juvenile facility staff. Secure juvenile entrances (sally ports, waiting areas) are independently controlled by

juvenile staff and separated from adult entrances. Public entrances, lobbies and waiting areas for the juvenile detention program are also controlled by juvenile staff and separated from similar adult areas. Adult and juvenile residents do not make use of common passageways between intake areas, residential spaces, and program/service spaces.

E. The space available for juvenile living, sleeping and the conduct of juvenile programs conforms to the requirements for secure juvenile detention specified by prevailing case law, prevailing professional standards of care, and by State code.

F. The facility is formally recognized as a juvenile detention center by the State agency responsible for monitoring, review, and/or certification of juvenile detention facilities under State law.

Certification of an area to hold juveniles within an adult jail or lockup (as provided by some State codes) may not conform to this. Basically, the State does not license the facility in which juveniles are held as a jail or lockup.

These and other conditions would serve to enhance the separateness of juvenile and adult facilities located in the same building or on the same grounds, thus ameliorating the destructive nature of juvenile jailing cited by Congress as the foundation for the 1980 amendment requiring removal of juveniles from adult jails and lockups.

In most cases, the States should have little difficulty in applying these four requirements and related factors to determine if sufficient separation exists to justify OJJDP concurring with a state finding that a separate juvenile detention facility exists where there is a common building or common grounds situation with a facility that is an adult jail or lockup. A *de minimis* allowance will be made for the occasions when juveniles are detained for a length of time and under conditions not in conformance with the Act. OJJDP will provide assistance and advice to States in the application of the criteria and relevant factors to any specific situation.

FOR FURTHER INFORMATION CONTACT: Doyle Wood, Office of Juvenile Justice and Delinquency Prevention, 633 Indiana Ave., NW., Washington, D.C. 20531, (202) 724–8491.

Alfred S. Regnery,

Administrator, Office of Juvenile Justice and Delinquency Prevention.

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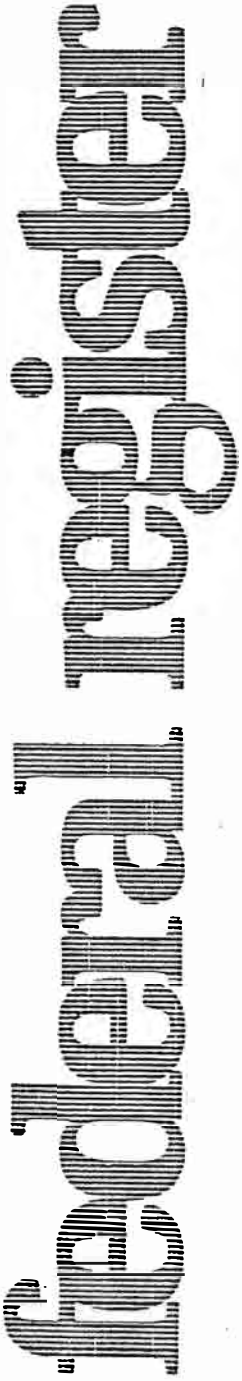

Thursday
June 20, 1985

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

28 CFR Part 31

Formula Grants for Juvenile Justice

AGENCY: Office of Juvenile Justice and Delinquency Prevention, Justice.

ACTION: Notice of final regulation.

SUMMARY: The Office of Juvenile Justice and Delinquency Prevention (OJJDP) is publishing a final regulation to implement the formula grant program authorized by Part B of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended by the Juvenile Justice, Runaway Youth, and Missing Children's Act Amendments of 1984 (Pub. L. 98–473, October 12, 1984). The 1984 Amendments reauthorize and modify the Federal assistance program to State and local governments and private not-for-profit agencies for juvenile justice and delinquency prevention improvements authorized under title II, Part B, Subpart I of the Act (42 U.S.C. 5611 et seq.). The regulation provides guidance to States in the formulation, submission, and implementation of State formula grant plans.

EFFECTIVE DATE: These regulations are effective June 20, 1985.

FOR FURTHER INFORMATION CONTACT: Emily C. Martin, Acting Director, State Relations and Assistance Division, OJJDP, 633 Indiana Avenue, NW., Room 768, Washington, D.C. 20531; telephone 202/724–5921.

SUPPLEMENTARY INFORMATION:

Statutory Amendments

The statutory changes instituted by the new legislation include new programmatic emphasis on programs for juveniles, including those processed in the criminal justice system, who have committed serious crimes, programs which seek to facilitate the coordination of services between the juvenile and criminal justice systems, education and special education programs, involvement of parents and other family members in addressing the delinquency related problems of juveniles, drug and alcohol abuse programs, law-related education, and approaches designed to strengthen and maintain the family units of delinquent and other troubled youth. The regulation implements significant statutory changes related to the jail removal requirement, including a change in the statutory exception and an extension of the date for States to achieve full compliance from December 8, 1987 to December 8, 1988.

The regulation details procedures and requirements for formula grant applications under the revised Act. Additional requirements for grant administration and fund accounting are set forth in the current edition of the Office of Justice Programs Financial and Administrative Guide for Grants, M 7100.1.

Objectives

OJJDP has revised the regulation to accomplish three objectives:

(1) Implement the 1984 Amendments which affect the formula grant program;

(2) Simplify the regulation, where possible, in order to maximize State flexibility and reduce paperwork, while still providing appropriate Federal guidance, where necessary; and

(3) Simplify and clarify the requirements of section 223(a) (12), (13), (14), And (15) in a way that will permit States the widest possible latitude in meeting these objectives in a manner that is consistent with both Federal law and State law, priorities, and resources.

Description of Major Statutory Changes

Family Programs

The Act places increased emphasis on programs which seek to address the

problem of delinquency and its prevention by strengthening and maintaining the family unit. Section 223(a) (10) and (17) was amended to reflect the role of the family in addressing problems of juvenile delinquency. The State must now provide an assurance that consideration and assistance will be given to programs designed to strengthen and maintain the family unit to prevent delinquency.

Deinstitutionalization

The 1984 Amendments defined "valid court order" in section 103(16). This definition has been incorporated in the regulation but, consistent with Congressional intent, it does not necessitate any change in § 31.303(f)(3) of the regulation.

Jail Removal

Section 223(a)(14) was amended to provide additional clarification and flexibility for the States in complying with the objectives of removing juveniles from adult jails and lockups. The Act was amended to provide an explicit, limited exception. The regulation (§ 31.303 4 arallels the statuto exce tion, e t six con itions which must be met before a juvenile can be detained in an adult ail. ne are: [1] The juvenile must be accuse of a criminal-type o e; [2] the juvenile is awaiting an initial court appearance; [3] the State in which the juvenile is detained has an enforceable State law requiring an initial court appearance within 24 hours after being taken into custody, excluding Saturdays, Sundays and holidays; [4] the area is outside a Metropolitan Statistical Area; [5] no existing acceptable alternative is available; and [6] the jail or lockup provides sight and sound separation between juvenile and adult offenders.

The statutory amendment and the implementing regulation should be viewed as an attempt to assist States, particularly those with large rural areas, in complying with the jail removal requirement, while at the same time providing for both the protection of the public and the safety of those juveniles who require temporary placement in secure confinement.

Two other exceptions to the jail removal requirement serve this objective. The first excepts juveniles who are under criminal court jurisdiction i e where a juvenile has been waived, transferred, or is subject to original or exclusive criminal court jurisdiction based on age and offense li itations established b State law and felo y cha es have been fi ed (See § 31.303 e)(2)). The second exception provi es that a juvenile arrested or taken into custody for committing an act which would be a crime if committed by an adult may be temporarily held for up to 6 hours in an adult jail or lockup for purposes of identification processing, or transfer to other facilities (See § 31.303(f)(5)(iv) (G) and (H)).

Section 223(c) of the JJDP Act was amended to allow States *three* additional years to achieve full compliance with the jail removal requirement if the State achieves a minimum 75 percent reduction in num er o juveni es held in a adul ail an lockups and ma es an unequivocal commitment to achieving full compliance within the additional three year period. Thus, full compliance must be demonstrated after December 8, 1988.

The regulation establishes, for the first time, criteria which will be applied by OJJDP in determining whether a State has achieved full compliance, with de minimis exceptions, with the jail removal requirement. States requesting a finding of full compliance with de minimis exceptions should submit the request at the time the annual monitoring report is submitted or as soon thereafter as all information required for a determination is available. Additional de minimis criteria, based on the model originally developed to measure full compliance with de minimis exceptions with section 223(a)(12)(A), will be developed by OJJDP after substantial compliance data have been received from the States. These criteria will establish a violation rate per 100,000 juvenile population which will be considered de minimis, thereby providing States with additional flexibility. Determinations of full compliance, with de minimis exceptions, with section 223(a)(14) would then be made annually by OJJDP and individual States required to show progress toward achieving a 100 per cent reduction in order to maintain eligibility for funding.

Audit of State Monitoring Systems

Section 204(b)(7) of the JJDP Act requires the OJJDP Administrator to provide for the auditing of State monitoring systems required under section 223(a)(15) of the Act. The State plan for monitoring compliance with sections 223(a) (12), (13) and (14) is a part of each State's three year plan. The monitoring plan requirements (§ 31.303(f)(1)) have been clarified to ensure that States establish a comprehensive monitoring plan and to enable OJJDP to review the plan for adequacy. The regulation does not expand the requirements for monitoring, rather it clarifies what constitutes an adequate system in order to assist the States in their monitoring efforts. OJJDP will undertake a periodic audit of each State's monitoring system and the reliability and validity of the data submitted in the State's monitoring report. The initial step in this process is to review the plans which States develop to monitor for compliance.

Discussion of Comments

A proposed regulation was published in the Federal Register on February 13, 1985 for public comment. Written comments from some 28 national, regional, and local organizations and individuals were received. All comments have been considered by the OJJDP in the issuance of a final regulation. A majority of the respondents commented favorably upon the regulation.

The following is a summary of the substantive comments and the response by OJJDP.

1. *Comment:* One State raised a concern over the relationship between the State agency head, who is by law responsible for carrying out the agency's functions, and the supervisory board. The concern was whether the agency head would be required, under the regulation, to "divest his authority and responsibility" in violation of State law.

Response: OJJDP has not been presented with a State law that would preclude the type of broad policy establishment, review and approval role that the JJDP Act and implementing regulations contemplate for the State agency supervisory board. Such a law would jeopardize a State's eligibility to participate in the formula grant program.

The supervisory board requirement of the statute, implemented in § 31.102 of the regulation, reflects a congressional judgment that the formula grant planning and funding process will be improved by the establishment of a policy board reflecting the diverse views of individuals involved in the law enforcement, criminal and juvenile justice systems.

Consequently, final decisionmaking authority on such matters as plan priorities, programs, and selection of sub-award recipients cannot be vested in a State agency head. Such decisions of necessity involve interplay between and joint action by the policy board and agency staff. Both the policy board and the agency are bound by laws, regulations, by-laws, and executive orders. Where the policy board and the head of the State agency cannot agree on some matter of policy, generally the policy board must prevail. However, the Governor, as the State's Chief Executive, and to the extent he or she reserves the power to resolve any intra-

agency conflicts or to determine major policy issues, would be the final decisionmaker.

2. *Comment:* The submission of a State's formula grant application should be allowed as late as 90 days subsequent to the start of the Federal fiscal year or at such date as mutually agreed to by the State and OJJDP.

Response: Section 31.3 of the regulation "encourages" States to submit their application 60 days prior to the beginning of the fiscal year. This would allow sufficient time for application review and award at the beginning of the fiscal year for which the funds are appropriated. It is OJJDP policy that a State's formula grant allocation remain available for obligation until the end of the fiscal year of appropriation, unless the State officially notifies OJJDP that it does not intend to apply for a formula grant award. Thus, flexibility exists for a State and OJJDP to mutually agree upon a date for application submission ranging from 60 days prior to the start of the fiscal year through the end of the fiscal year of appropriation.

3. *Comment:* OJJDP should provide the Formula Grant Application Kit, containing information and instructions for application preparation, to States no later than June 1st of each year.

Response: OJJDP intends to develop and disseminate an updated fiscal year 1985 Application Kit as soon as the final formula grant regulation is published. For those States whose fiscal year 1985 plan has already been submitted, separate instructions for supplementing the FY 1985 multi-year plan to meet any new or modified requirements imposed by the final regulation will also be issued. The fiscal year 1986 Application Kit will be available by July 15, 1985 and the fiscal year 1987 Kit by June 1, 1986 (See § 31.3).

4. *Comment:* Language should be added to the regulation which indicates OJJDP will notify the States of their formula grant allocation within 30 days after the fiscal year appropriation measure has been enacted.

Response: Section 31.301(a) has been modified by adding language specifying that OJJDP will notify States of the respective allocation within 30 days after the annual appropriation bill becomes law.

5. *Comment:* Several commentators expressed concern over OJJDP's explanation of how nonparticipating State funds are reallocated and awarded. These concerns revolve around the identity of the funds upon reallocation (formula or discretionary), their use (authorized purpose or purposes), and eligibility (State, local public and private agencies in the nonparticipating State, or States in full compliance with section 223(a) (12)(A), and (13)). Some confusion may have resulted from a Federal Register printing error which was later corrected (47 FR 9679, March 11, 1985).

Response: Although OJJDP sees no need to modify § 31.301(e) of the regulation, a brief clarification should suffice to alleviate the concerns raised.

OJJDP has treated reallocated formula grant funds as if they were discretionary funds since the 1980 Amendments established the current section 223(d) reallocation formula. This is because section 221 limits formula grant awards to "States and units of general local government or combinations thereof" while section 223(d) provides that reallocated formula grant funds may be awarded to "local public and private nonprofit agencies", a separate and distinct group of eligible receipients. However, OJJDP considers these funds to be subject to the following section 223(d) (rather than section 224) fund use limitations:

(1) The OJJDP Administrator must endeavor to make a State's reallocated funds available within that nonparticipating State;

(2) Funds are available only to local public and private nonprofit agencies; and

(3) Fund use is limited to carrying out the purposes of deinstitutionalization, separation, and jail removal.

In all other respects, however, OJJDP considers the award of these funds to be in the nature of discretionary awards under the Special Emphasis Program and, consequently, subject to the requirements of sections 225–229.

It is only after OJJDP has endeavored to make the reallocated funds available in the nonparticipating State that the Administrator can make the remainder (if any) of these funds available, on an equitable basis, to States in full compliance with sections 233(a)(12)(A) and 233(a)(13).

6. *Comment:* The State advisory group composition provision (§ 31.302(b)(2)) does not list all the membership and other statutory requirements related to State advisory group composition.

Response: OJJDP sees no need for the regulation to repeat all of the statutory advisory group composition requirements. However, § 31.302(b)(1) specifies that the advisory group must meet all of the section 223(a)(3) statutory requirements. These requirements will be specified in detail in the Formula Grant Application Kit. Section 31.302(b)(2), on the other hand, merely suggests that the Governor consider appointing representatives of areas and interests that OJJDP believes to be underrepresented on State advisory groups generally and important to a balanced perspective on juvenile justice policy and funding priorities. In addition, these individuals can provide a valuable contribution in assessing the programs marketed through OJJDP's State Relations and Assistance Division. Several minor clarifying changes have been made to the § 31.302(b)(2) language.

7. *Comment:* The permissive language of the § 31.303(b) serious juvenile offender emphasis provision was endorsed by one commentator because it provides needed discretion to States. Another commentator suggested removal of the "minimum" of 30% language because it interferes with State discretion.

Response: The provision encouraging States to allocate a minimum of 30% of their formula grant award to serious and violent juvenile offender programs was placed in the formula grant regulation in 1981 as a result of the 1980 Amendment's emphasis on serious and violent juvenile crime. Under this provision, the Office has simply "encouraged" the allocation of a minimum of 30% funding for serious and violent juvenile offender programs in States which have identified this as a priority program area. OJJDP sees no need to impliedly limit funding to a 30% level, particularly because as States come into compliance with the requirements of section 233(a) (12) to (14), additional formula grant funds will be available for other priority program needs. Therefore, in the final regulation, States are encouraged to provide a level of funding for serious and violent juvenile offender programs that is both adequate and sufficient to meet the level of need for such programs that has been identified through the State planning process.

OJJDP will continue to assist States in meeting their identified needs in the area as serious and violent juvenile offender programs through the provision of technical assistance, training, and Special Emphasis programming under section 224(a)(5).

8. *Comment:* When OJJDP added the term "felony" in § 31.303(e)(2) it closed an unintended loophole whereby juvenile traffic offenders and violators of other misdemeanor laws could be inappropriately jailed. Limiting this exception to "felony" violations is more restrictive and may increase the number of compliance violations, thereby creating a problem in measuring progress with section 223(a)(14) of the JJDP Act. Thus OJJDP should allow

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affected States Flexibility for this particular element of the monitoring report.

Response: Flexibility will be provided to a State which cannot, or chooses not to, reconstruct baseline data consistent with the change in § 31.303(e)(2) *and* is unable to demonstrate substantial compliance with section 223(a)(14) because the current data excepts only "criminal felony charges" while the baseline data excepts all "criminal charges". Under these circumstances, OJJDP will allow the State, upon request and with OJJDP prior approval, to modify the current data to also except juveniles having any "criminal charges" filed in a court with criminal jurisdiction in lieu of excepting only "criminal felony" charges".

9. *Comment:* The establishment, in § 31.303(e)(3), of the four criteria to be used in determining whether or not a facility in which juveniles are detained or confined is an adult jail or lockup, in circumstances where juvenile and adult facilities are located in the same building or on the same grounds, was the subject of several comments which made the following points:

(1) The criteria should mandate the provision of programs and services appropriate to the needs of incarcerated juveniles as determined by law and professional standards of practice; and

(2) The proposed regulation permits "enhanced separation" in lieu of complete removal as intended by Congress. To qualify as a separate facility, a place of juvenile detention or confinement should share no common wall or common roof with an adult jail or lockup.

Response: OJJDP believes it is beyond the office's statutory authority to prescribe the level of programs and services which must be provided in State juvenile facilities. These matters are best left to State law and regulation and State and Federal judicial determination. While OJJDP recognizes that these are important issues, the JJDP Act mandates provide only the framework within which States can continue to evolve a more efficient and effective juvenile justice system.

OJJDP intended the policy statement to be used only as a method to classify facilities as either adult jails and lockups or as separate juvenile detention facilities. It was never intended to be used as a guide to planning for or establishing "enhanced separation" of juvenile and adult offenders in lieu of jail removal. OJJDP had determined that it is entirely appropriate to provide flexibility to States in those situations where a truly separate facility for juveniles is located on the same grounds or in the same building as an adult jail or lockup. It should also be noted that, to date, *no* State has formally requested OJJDP approval of a State's determination of a separate juvenile facility under the terms and conditions of the policy.

OJJDP has learned that several counties are considering new jail construction or the expansion or renovation of existing jails to provide "enhanced separation" for the juvenile area or section of the facility.

OJJDP does not view this as a positive development because it: (1) Stifles consideration of the many viable alternatives to the use of adult jails and lockups which are available to States, counties, and local governments; (2) may lead to increased isolation of juveniles in secure facilities; (3) may lead to a failure to provide needed programs and services; and (4) is clearly not responsive to the thrust of the removal mandate.

OJJDP's primary objective in establishing the policy in the first instance was to permit existing juvenile facilities to continue to operate in circumstances where they are, in fact, separate from an adult jail or lockup. While it is possible that new facilities could come into existence that meet the four minimum requirements to establish that two separate facilities exist, the mere provision of "enhanced separation" of juveniles and adults within an existing facility will not serve to meet the minimum requirements. Consequently, OJJDP will only exempt facilities which fully meet each of the four criteria required to be met in order to establish facility separateness. For this purpose, the regulation continues to provide for an initial State determination that a particular facility meets the four criteria, submission to OJJDP of documentation establishing that the requirements are met for the particular facility, and OJJDP concurrence or nonconcurrence with the State determination.

OJJDP will make staff and technical assistance resources available to States to ensure that the full range of alternatives to the use of adult jails and lockups is considered by those jurisdictions which will need to modify their existing practices in order for the State to meet the applicable statutory deadlines for compliance with the jail removal requirement.

10. *Comment:* The designated State agencies established pursuant to section 223(a)(1) of the JJDP Act should have input into the design of the auditing methodology which OJJDP undertakes pursuant to section 204(b)(7) of the Act and any OJJDP audit activity should be conducted in coordination with State agency juvenile justice staff.

Response: OJJDP intends to involve the designated State agency juvenile justice staff in both the methodology development and actual conduct of any on-site audits of State monitoring systems (see § 31.303(f)).

11. *Comment:* OJJDP should reconsider the regulation requiring the monitoring of nonsecure facilities. The requirement to identify, classify, and inspect all facilities could be difficult given limited staff, the excessive amount of work involved, and the fact that compliance monitoring should focus or secure facilities. Also, because other State agencies oversee many of these facilities, the regulation would require a duplication of existing efforts.

Response: Section 223(a)(15) of the JJDP Act expressly requires States to monitor jails, detention facilities, correctional facilities and *nonsecure facilities*. Thus, § 31.303(f)(1)(i) of the regulation reflects a statutory requirement which OJJDP cannot waive or delete by regulation. To enable a State to determine which facilities fall under the purview of section 223(a) (12), (13) and (14), all facilities which may hold juveniles must be identified and classified. Only those facilities classified as secure detention facilities, secure correctional facilities, adult jails, or adult lock-ups fall under the data collection and data verification monitoring requirements. Once a facility is classified as nonsecure, the State does not necessarily have to reinspect the facility annually, but should have adequate procedures to ensure its classification as a nonsecure facility remains accurate. Classification review should occur at least every two years. The regulation does not require the State agency designated pursuant to section 223(a)(1) of the JJDP Act to perform all monitoring tasks. If other agencies have monitoring responsibilities, the designated State agency can utilize their information. The regulation requires a description of the monitoring activities and identification of the specific agency responsible for each task. Also, formula grant funds, other than the 7½ allowed for administrative costs pursuant to section 222(c), may be used to pay costs associated with implementing the monitoring requirement of section 223(a)(15).

12. *Comment:* (1) The valid court order regulation (Section 31.303(f)(3)), allowing secure detention of a juvenile who is alleged to have violated a valid court order, provides too much latitude to States. The regulation should clarify that there must be "reasonable grounds" or

"probable cause" before securely detaining a juvenile who has allegedly violated a valid court order. (2) The regulation does not require that the court order be entered *after* the provision of all due process. If the juvenile is not provided with right to counsel at the initial proceeding when the order is entered, then it is not constitutionally "valid." (3) The regulation should prohibit the detention of juveniles for allegedly violating a valid court order until a formal judicial determination (adjudication) has been made that such violation occurred.

Response: OJJDP considered the legal and constitutional issues raised by these commentators in developing the existing valid court order regulation. This development process included hearings held at two sites and the receipt, review and analysis of many written comments. The final regulation was published on August 16, 1982 (47 FR 35686). Since that time, OJJDP has been presented with no allegations or documentation of abuse in the application and/or implementation of the regulation. Consequently, OJJDP sees no basis to consider modification to this section of the regulation.

13. *Comment:* The statutory exception which permits States to jail juveniles in non-MSA areas for up to 24 hours, provided they are sight and sound separated from adults, gives rise to the very isolation problems, such as increased suicides, which motivated Congress to require complete jail removal in the first place. Consequently, the regulation requiring sight and sound separation under the 24 hour non-MSA exception should be strengthened to ensure that no youth is placed in a situation where he or she is placed in "de facto" solitary confinement because of the desire to achieve separation from adult offenders.

Response: Congress established the six specific requirements for this exception. However, OJJDP agrees with the thrust of this comment. Consequently, language has been added to § 31.303(f)(4), which implements the non-MSA statutory exception provision, to strongly recommend the provision of continuous visual supervision for those juveniles held up to 24 hours in an adult jail or lockup, pursuant to the exception, during the period of their incarceration.

14. *Comment:* States have not collected data which parallels the new jail removal exception. Thus, for States demonstrating a good-faith effort in the area of jail removal monitoring, appropriate flexibility by OJJDP is needed.

Response: States which established baseline jail removal data using the original statutory exception for "low population density areas" *and* which fail to demonstrate substantial compliance solely because the current data reflects the revised statutory exception for non-MSA areas, will be permitted to modify their current data by using the original statutory exception, upon request and with OJJDP prior approval (see § 31.303(f)(4)).

15. *Comment:* The word "certify" in § 31.303(f)(4)(iv) should be removed and the regulation require only that a "determination" has been made that the adult jail or lockup provides for the sight and sound separation of juveniles and incarcerated adults.

Response: The use of the term "certify" was intentionally included to require that specific action be taken, both by the State and the facility administration, to ensure the facility provides for sight and sound separation of juveniles and incarcerated adults. Through a certification process, the facility would have to document it provides for both separation and visual supervision. This could be accomplished by the jail administration stating in writing that these requirements are met and agreeing to notify the State if the facility is unable or fails to maintain the required level of separation and supervision.

16. *Comment:* The regulation requirement of "at least 6 months of data" for the annual monitoring report will create problems with data collection and monitoring because of the lack of both staff and resources.

Response: OJJDP will provide assistance and guidance to those States which will need to expand the length of their reporting period to comply with § 31.303(f)(5). With regard to costs associated with accomplishing the monitoring requirement, see Comment 11.

17. *Comment:* The six-hour "grace period" for detaining juveniles in adult jails or lockups is extremely difficult to rationalize and justify and a less restrictive limit would allow the freedom to determine more accurately the needs of a juvenile. Does the six-hour provision preclude placing a juvenile in a jail late at night and releasing him or her the next morning? The six-hour grace period should be extended to 10, 12, or 24 hours because in some remote areas it is impossible to travel the distance necessary, particularly in foul weather, to pick up a youth within six hours.

Response: It is Congress' finding that juvenile offenders and nonoffenders should not be placed in an adult jail or lockup for any period of time. However, for the purpose of monitoring and reporting compliance with the jail removal requirement, the House Committee on Education and Labor stated, in its Committee Report on the 1980 Amendments, that it would be permissible for OJJDP to permit States to exclude, for monitoring purposes, those juveniles alleged to have committed an act which would be a crime if committed by an adult (criminal-type offenders) and who are held in an adult jail or lockup for up to six hours. This six-hour period would be limited to the temporary holding in an adult jail or lockup by police for the specific purpose of identification, processing, and transfer to juvenile court officials or to juvenile shelter or detention facilities. Any such holding of a juvenile criminal-type offender must be limited to the absolute minimum time necessary to complete this action, not to exceed six hours, and in no case overnight. Even where such a temporary holding is permitted, the section 223(a)(13) separation requirement would operate to prohibit the accused juvenile criminal-type offender from being in sight or sound contact with an adult offender during the period of holding. Under no circumstances does the allowance of a six-hour "grace period" applicable to juvenile criminal-type offenders permit a juvenile status offender or nonoffender be detained, even temporarily, in an adult jail or lockup under section 223(a)(14). In monitoring for compliance with section 223(a)(14), section 31.303(f)(5)(iv) of the regulation requires States to report the number of juvenile criminal-type offenders held in adult jails and lockups in excess of six hours. However, it should be noted that the six hours does not include time involved in transporting a juvenile to or from an adult jail or lockup.

18. *Comment:* The revised definition of the term "secure" in § 31.304(b), which clarified that "staff secure" facilities are outside the scope of the statutory definition, was the subject of several comments. Some commentators found the clarification helpful, recognizing the need to provide for the safety and protection of all juveniles in appropriate circumstances through therapeutic intervention. However, a number of others felt that better definitions of related terms such as "limited", "reasonable" and "for their own protection and safety" required further study, particularly in view of the due process and liberty interest implications of the staff secure concept, a perceived potential for abuse, and the need to identify effective staff secure programs in order to properly define the concept.

Response: OJJDP found these comments helpful. The use of the word "secure" in "staff secure" in the draft regulation apparently caused some confusion. Perhaps "staff restrictive" would have been a better descriptor. In any event, OJJDP has eliminated the use of the term "staff secure" in the final regulation. However, the office will continue to work with individuals and organizations in the field of juvenile justice to define this concept in the context of effective programs that use staff control techniques, which include procedures or methods other than the use of construction fixtures, that may physically restrict the movements and activities of individual facility residents. The objective is to insure that juveniles will remain in residential facilities to receive the care and treatment that is necessary to carry out the juvenile or family court custody order.

The JJDP Act defines the terms "secure detention facility" and "secure correctional facility" in sections 103 [12] and [13]. In this context, the terms are expressly defined to include only those public or private residential facilities which "include[s] construction fixtures designed to physically restrict the movements and activities of juveniles ...". The plain meaning of this statutory language is that facility features other than "construction fixtures", such as the use of staff to restrict physically or procedurally the movements and activities of juveniles, are not within the scope of the definition.

Executive Order 12291

This announcement does not constitute a "major" rule as defined by Executive Order 12291 because it does not result in: (a) An effect on the economy of $100 million or more, (b) a major increase in any costs or prices, or (c) adverse effects on competition, employment, investment, productivity, or innovation among American enterprises.

Regulatory Flexibility Act

This final rule does not have "significant" economic impact on a substantial number of small "entities", as defined by the Regulatory Flexibility Act (Pub. L. 96-354).

Paperwork Reduction Act

The collection of information requirements for compliance monitoring contained in this regulation have been approved by the Office of Management and Budget (Data Collection #1121-0089, expiration date June 30, 1986) under the Paperwork Reduction Act. 44 U.S.C. 3504(h).

List of Subjects in 28 CFR Part 31

Grant programs, Juvenile delinquency.

Accordingly, 28 CFR Part 31 is revised to read as follows:

PART 31—FORMULA GRANTS

Subpart A—General Provisions

Subpart B—Eligible Applicants

Subpart C—General Requirements

Subpart D—Juvenile Justice Act Requirements

Subpart E—General Conditions and Assurances

Authority: Juvenile Justice and Delinquency Prevention Act of 1974, as amended, (42 U.S.C. 5601 et seq.)

Subpart A—General Provisions

§ 31.1 General.

This part defines eligibility and sets forth requirements for application for and administration of formula grants to State governments authorized by Part B, Subpart I, of the Juvenile Justice and Delinquency Prevention Act.

§ 31.2 Statutory authority.

The Statute establishing the Office of Juvenile Justice and Delinquency Prevention and giving authority to make grants for juvenile justice and delinquency prevention improvement programs is the *Juvenile Justice and Delinquency Prevention Act of 1974*, as amended (42 U.S.C. 5601 et seq.).

§ 31.3 Submission date.

Formula Grant Applications for each of Fiscal Year should be submitted to OJJDP by August 1st (60 days prior to the beginning of the fiscal year) or within 60 days after the States are officially notified of the fiscal year formula grant allocations.

Subpart B—Eligible Applicants

§ 31.100 Eligibility.

All States as defined by section 103(7) of the JJDP Act.

§ 31.101 Designation of State agency.

The Chief Executive of each State which chooses to apply for a formula grant shall establish or designate a State agency as the sole agency for supervising the preparation and administration of the plan. The plan must demonstrate compliance with administrative and supervisory board membership requirements established by the OJJDP Administrator pursuant to Section 261(c) of the JJDP Act. States must have available for review a copy of the State law or executive order establishing the State agency and its authority.

§ 31.102 State agency structure.

The State agency may be a discrete unit of State government or a division or other component of an existing State crime commission, planning agency or other appropriate unit of State government. Details of organization and structure are matters of State discretion, provided that the agency: (a) Is a definable entity in the executive branch with the requisite authority to carry out the responsibilities imposed by the JJDP Act; (b) has a supervisory board (i.e., a board of directors, commission, committee, council, or other policy board) which has responsibility for supervising the preparation and administration of the plan and its implementation; and (c) has sufficient staff and staff capability to carry out the board's policies and the agency's duties and responsibilities to administer the program, develop the plan, process applications, administer grants awarded under the plan, monitor and evaluate programs and projects, provide administration/support services, and perform such accountability functions as are necessary to the administration of Federal funds, such as grant close-out and audit of subgrant and contract funds.

§ 31.103 Membership of Supervisory Board.

The State advisory group appointed under section 223(a)(3) may operate as the supervisory board for the State agency, at the discretion of the Governor. Where, however, a State has continuously maintained a broad-based law enforcement and criminal justice supervisory board (council) meeting all the requirements of section 402(b)(2) of the Justice System Improvement Act of 1979, and wishes to maintain such a

board, such composition shall continue to be acceptable provided that the board's membership includes the chairman and at least two additional citizen members of the State advisory oup. For purposes of this requirement a citizen member is defined as any person who is not a full-time government employee or elected official. Any executive committee of such a board must include the same proportion of juvenile justice advisory group members as are included in the total board membership. Any other proposed supervisory board membership is subject to case by case review and approval of the OJJDP Administrator and will require, at a minimum, "balanced representation" of juvenile justice interests.

Subpart C—General Requirements

§ 31.200 General.

This subpart sets forth general requirements applicable to formula grant recipients under the JJDP Act of 1974, as amended. Applicants must assure compliance or submit necessary information on these requirements.

§ 31.201 Audit.

The State must assure that it adheres to the audit requirements enumerated in the "Financial and Administrative Guide for Grants", Guideline Manual 7100.1 (current edition). Chapter 8 of the Manual contains a comprehensive statement of audit policies and requirements relative to grantees and subgrantees.

31.202 Civil rights.

(a) To carry out the State's Federal civil rights responsibilities the plan must:

(1) Designate a civil rights contact person who has lead responsibility in insuring that all applicable civil rights requirements, assurances, and conditions are met and who shall act as liaison in all civil rights matters with OJJDP and the OJP Office of Civil Rights Compliance (OCRC); and

(2) Provide the Council's Equal Employment Opportunity Program (EEOP), if required to maintain one under 28 CFR 42.301, *et seq.*, where the application is for $500,000 or more.

(b) The application must provide assurance that the State will:

(1) Require that every applicant required to formulate an EEOP in accordance with 28 CFR 42.201 et seq., submit a certification to the State that it has a current EEOP on file, which meets the requirement therein;

(2) Require that every criminal or juvenile justice agency applying for a grant of $500,000 or more submit a copy of its EEOP (if required to maintain one under 28 CFR 42.301, et seq.) to OCRC at the time it submits its application to the State;

(3) Inform the public and subgrantees of affected persons' rights to file a complaint of discrimination with OCRC for investigation;

(4) Cooperate with OCRC during compliance reviews of recipients located within the State; and

(5) Comply, and that its subgrantees and contractors will comply with the requirement that, in the event that a Federal or State court or administrative agency makes a finding of discrimination on the basis of race, color, religion, national origin, or sex (after a due process hearing) against a State or a subgrantee or contractor, the affected recipient or contractor will forward a copy of the finding to OCRC.

§ 31.203 Open meetings and public access to records.

The State must assure that the State agency and its supervisory board established pursuant to section 261(c)(1) and the State advisory group established pursuant to section 223(a)(3) will follow applicable State open meeting and public access laws and regulations in the conduct of meetings and the maintenance of records relating to their functions.

Subpart D—Juvenile Justice Act Requirements

§ 31.300 General.

This subpart sets forth specific JJDP Act requirements for application and receipt of formula grants.

§ 31.301 Funding.

(a) *Allocation to States.* Each State receives a base allotment of $225,000 except for the Virgin Islands; Guam, American Samoa, the Trust Territory of the Pacific Islands and the Commonwealth of the Northern Mariana Islands where the base amount is $56,250. Funds are allocated among the States on the basis of relative population under 18 years of age. OJJDP will officially notify the States and territories of their respective allocation within 30 days after the appropriation bill for the applicable fiscal year becomes law.

(b) *Funds for Local Use.* At least two-thirds of the formula grant allocation to the State must be used for programs by local government, or local private agencies unless the State applies for and is granted a waiver by the Office of Juvenile Justice and Delinquency Prevention.

(c) *Match.* Formula grants under the JJDP Act shall be 100% of approved costs, with the exception of planning and administration funds, which require a 100% cash match (dollar for dollar), and construction projects funded under section 227(a)(2) which also require a 100% cash match.

(d) *Funds for Administration.* Not more than 7.5% of the total annual formula grant award may be utilized to develop the annual juvenile justice plan and pay for administrative expenses, including project monitoring evaluation. These funds are to be matched on a dollar for dollar basis. The State shall make available needed funds for planning and administration to units of local government or combinations on an equitable basis. Each annual application must identify uses of such funds.

(e) *Nonparticipating States.* Pursuant to section 223(d), the OJJDP Administrator shall endeavor to make the fund allotment under section 222(a), of a State which chooses not to participate or loses its eligibility to participate in the formula grant program, directly available to local public and private nonprofit agencies within the nonparticipating State. The funds may be used only for the purpose(s) of achieving deinstitutionalization of status offenders and nonoffenders, separation of juveniles from incarcerated adults, and/or removal of juveniles from adult jails and lockups. Absent the demonstration of compelling circumstances justifying the reallocation of formula grant funds back to the State to which the funds were initially allocated, or the pendency of administrative hearing proceedings under section 223(d), formula grant funds will be reallocated on October 1 following the fiscal year for which the funds were appropriated. Reallocated funds will be competitively awarded to eligible recipients pursuant to program announcements published in the Federal Register.

§ 31.302 Applicant State agency.

(a) Pursuant to section 223(a)(1), section 223(a)(2) and section 261(c) of the JJDP Act, the State must assure that the State agency approved under Section 261(c) has been designated as the sole agency for supervising the preparation and administration of the plan and has the authority to implement the plan.

(b) *Advisory Group.* Pursuant to section 223(a)(3) of the JJDP Act, the Chief Executive:

(1) Shall establish an advisory group pursuant to section 223(a)(3) of the JJDP Act. The State shall provide a list of all

current advisory group members, indicating their respective dates of appointment and how each member meets the membership requirements specified in this section of the Act.

(2) Should consider, in meeting the statutory membership requirements of section 223(a)(3) (A) to (E), appointing at least one member who represents each of the following: A law enforcement officer such as a police officer; a juvenile or family court judge; a probation officer; a corrections official; a prosecutor; a representative from an organization, such as a parents group, concerned with teenage drug and alcohol abuse; and a high school principal.

(c) The State shall assure that it complies with the Advisory Group Financial support requirement of section 222(d) and the composition and function requirements of section 223(a)(3) of the JJDP Act.

31.303 Substantive requirements.

(a) *Assurances.* The State must certify through the provision of assurances that it has complied and will comply (as appropriate) with section 223(a) (4), (5), (6), (7), (8)(C), (9), (10), (11), (16), (17), (18), (19), (20), and (21), and sections 229 and 261(d), in formulating and implementing the State plan. The Formula Grant Application Kit can be used as a reference in providing these assurances.

(b) *Serious Juvenile Offender Emphasis.* Pursuant to sections 101(a)(8) and 223(a)(10) of the JJDP Act, the Office encourages States that have identified serious and violent juvenile offenders as a priority problem to allocate formula grant funds to programs designed for serious and violent juvenile offenders at a level consistent with the extent of the problem as identified through the State planning process. Particular attention should be given to improving prosecution, sentencing procedures, providing resources necessary for informed dispositions, providing for effective rehabilitation, and facilitating the coordination of services between the juvenile justice and criminal justice systems.

(c) *Deinstitutionalization of Status Offenders and Non-Offenders.* Pursuant to section 223(a)(12)(A) of the JJDP Act, the State shall:

(1) Describe its plan, procedure, and timetable covering the three-year planning cycle, for assuring that the requirements of this section are met. Refer to § 31.303(f)(3) for the rules related to the valid court order exception to this Act requirement.

(2) Describe the barriers the State faces in achieving full compliance with the provisions of this requirement.

(3) For those States that have achieved "substantial compliance", as outlined in section 223(c) of the Act, document the unequivocal commitment to achieving full compliance.

(4) Those States which, based upon the most recently submitted monitoring report, have been found to be in full compliance with section 223(a)(12)(A) may, in lieu of addressing paragraphs (c) (1), (2), and (3) of this section, provide an assurance that adequate plans and resources are available to maintain full compliance.

(5) Submit the report required under section 223(a)(12)(B) of the Act as part of the annual monitoring report required by section 223(a)(15) of the Act.

(d) *Contact with Incarcerated Adults.* (1) Pursuant to section 223(a)(13) of the JJDP Act the State shall:

(i) Describe its plan and procedure, covering the three-year planning cycle, for assuring that the requirements of this section are met. The term *regular contact* is defined as sight and sound contact with incarcerated adults, including inmate trustees. This prohibition seeks as complete a separation as possible and permits no more than haphazard or accidental contact between juveniles and incarcerated adults. In addition, include a timetable for compliance and justify any deviation from a previously approved timetable.

(ii) In those isolated instances where juvenile criminal-type offenders remain confined in adult facilities or facilities in which adults are confined, the State must set forth the procedures for assuring no regular sight and sound contact between such juveniles and adults.

(iii) Describe the barriers which may hinder the separation of alleged or adjudicated criminal-type offenders, status offenders and non-offenders from incarcerated adults in any particular jail, lockup, detention or correctional facility.

(iv) Those States which, based upon the most recently submitted monitoring report, have been found to be in compliance with section 223(a)(13) may, in lieu of addressing paragraphs (d) (i), (ii), and (iii) of this section, provide an assurance that adequate plans and resources are available to maintain compliance.

(v) Assure that adjudicated offenders are not reclassified administratively and transferred to an adult (criminal) correctional authority to avoid the intent of segregating adults and juveniles in correctional facilities. This does not prohibit or restrict waiver of juveniles to criminal court for prosecution, according to State law. It does, however, preclude a State from administratively transferring a juvenile offender to an adult correctional authority or a transfer within a mixed juvenile and adult facility for placement with adult criminals either before or after a juvenile reaches the statutory age of majority. It also precludes a State from transferring adult offenders to juvenile correctional authority for placement.

(2) *Implementation.* The requirement of this provision is to be planned and implemented immediately by each State in light of identified constraints on immediate implementation. Immediate compliance is required where no constraints exist. Where constraints exist, the designated date of compliance in the latest approved plan is the compliance deadline. Those States not in compliance must show annual progress toward achieving compliance until compliance is reached.

(e) *Removal of Juveniles From Adult Jails and Lockups.* Pursuant to section 223(a)(14) of the JJDP Act, the State shall:

(1) Describe its plan, procedure, and timetable for assuring that requirements of this section will be met beginning after December 8, 1985. Refer to § 31.303(f)(4) to determine the regulatory exception to this requirement.

(2) Describe the barriers which the State faces in removing all juveniles from adult jails and lockups. This requirement excepts only those juveniles formally waived or transferred to criminal court and against whom criminal felony charges have been filed, or juveniles over whom a criminal court has original or concurrent jurisdiction and such court's jurisdiction has been invoked through the filing of criminal felony charges.

(3)(i) Determine whether or not a facility in which juveniles are detained or confined is an adult jail or lockup. In circumstances where the juvenile and adult facilities are located in the same building or on the same grounds, each of the following four requirements initially set forth in the January 17, 1984 Federal Register (49 FR 2054–2055) must be met in order to ensure the requisite separateness of the two facilities. The requirements are:

(A) Total separation between juvenile and adult facility spatial areas such that there could be no haphazard or accidental contact between juvenile and adult residents in the respective facilities.

(B) Total separation in all juvenile and adult program activities within the

facilities, including recreation, education, counseling, health care, dining, sleeping, and general living activities.

(C) Separate juvenile and adult staff, including management, security staff, and direct care staff such as recreation, education, and counseling. Specialized services staff, such as cooks, bookkeepers, and medical professionals who are not normally in contact with detainees or whose infrequent contacts occur under conditions of separation of juvenile and adults, can serve both.

(D) In States that have established State standards or licensing requirements for secure juvenile detention facilities, the juvenile facility meets the standards and is licensed as appropriate.

(ii) The State must initially determine that the four requirements are fully met. Upon such determination, the State must submit to OJJDP a request to concur with the State finding that a separate juvenile facility exists. To enable OJJDP to assess the separateness of the two facilities, sufficient documentation must accompany the request to demonstrate that each requirement is met.

(4) For those States that have achieved "substantial compliance" with section 223(a)(14) as specified in section 223(c) of the Act, document the unequivocal commitment to achieving full compliance.

(5) Those States which, based upon the most recently submitted monitoring report, have been found to be in full compliance with section 223(a)(14) may, in lieu of addressing paragraphs (e) (1), (2), and (4) of this Section, provide an assurance that adequate plans and resources are available to maintain full compliance.

(f) *Monitoring of Jails, Detention Facilities and Correctional Facilities.* (1) Pursuant to section 223(a)(15) of the JJDP Act, and except as provided by paragraph (f)(7) of this section, the State shall:

(i) Describe its plan, procedure, and timetable for annually monitoring jails, lockups, detention facilities, correctional facilities and non-secure facilities. The plan must at a minimum describe in detail each of the following tasks including the identification of the specific agency(s) responsible for each task.

(A) *Identification of Monitoring Universe:* This refers to the identification of all residential facilities which might hold juveniles pursuant to public authority and thus must be classified to determine if it should be included in the monitoring effort. This includes those facilities owned or operated by public and private agencies.

(B) *Classification of the Monitoring Universe:* This is the classification of all facilities to determine which ones should be considered as a secure detention or correctional facility, adult correctional institution, jail, lockup, or other type of secure or nonsecure facility.

(C) *Inspection of facilities:* Inspection of facilities is necessary to ensure an accurate assessment of each facility's classification and record keeping. The inspection must include: (*1*) A review of the physical accommodations to determine whether it is a secure or non-secure facility or whether adequqte sight and sound separation between juvenile and adult offenders exists *and* (*2*) a review of the record keeping system to determine whether sufficient data are maintained to determine compliance with section 223(a) (12), (13) and/or (14).

(D) *Data Collection and Data Verification:* This is the actual collection and reporting of data to determine whether the facility is in compliance with the applicable requirement(s) of section 223(a) (12), (13) and/or (14). The length of the reporting period should be 12 months of data, but in no case less than 6 months. If the data is self-reported by the facility or is collected and reported by an agency other than the State agency designated pursuant to section 223(a)(1) of the JJDP Act, the plan must describe a statistically valid procedure used to verify the reported data.

(ii) Provide a description of the barriers which the State faces in implementing and maintaining a monitoring system to report the level of compliance with section 223(a) (12), (13), and (14) and how it plans to overcome such barriers.

(iii) Describe procedures established for receiving, investigating, and reporting complaints of violation of section 223(a) (12), (13), and (14). This should include both legislative and administrative procedures and sanctions.

(2) For the purpose of monitoring for compliance with section 223(a)(12)(A) of the Act a secure detention or correctional facility is any secure public or private facility used for the lawful custody of *accused* or adjudicated juvenile offenders or non-offenders, *or* used for the lawful custody of accused or convicted adult criminal offenders.

(3) *Valid Court Order.* For the purpose of determining whether a valid court order exists and a juvenile has been found to be in violation of that valid order all of the following conditions must be present prior to secure incarceration:

(i) The juvenile must have been brought into a court of competent jurisdiction and made subject to an order issued pursuant to proper authority. The order must be one which regulates future conduct of the juvenile.

(ii) The court must have entered a judgment and/or remedy in accord with established legal principles based on the facts after a hearing which observes proper procedures.

(iii) The juvenile in question must have received adequate and fair warning of the consequences of violation of the order at the time it was issued and such warning must be provided to the juvenile and to the juvenile's attorney and/or legal guardian in writing and be reflected in the court record and proceedings.

(iv) All judicial proceedings related to an alleged violation of a valid court order must be held before a court of competent jurisdiction. A juvenile accused of violating a valid court order may be held in secure detention beyond the 24-hour grace period permitted for a noncriminal juvenile offender under OJJDP monitoring policy, for protective purposes as prescribed by State law, or to assure the juvenile's appearance at the violation hearing, as provided by State law, if there has been a judicial determination based on a hearing during the 24-hour grace period that there is probable cause to believe the juvenile violated the court order. In such case the juveniles may be held pending a violation hearing for such period of time as is provided by State law, but in no event should detention prior to a violation hearing exceed 72 hours exclusive of nonjudicial days. A juvenile found in a violation hearing to have violated a court order may be held in a secure detention or correctional facility.

(v) Prior to and during the violation hearing the following full due process rights must be provided:

(A) The right to have the charges against the juvenile in writing served upon him a reasonable time before the hearing;

(B) The right to a hearing before a court;

(C) The right to an explanation of the nature and consequences of the proceeding;

(D) The right to legal counsel, and the right to have such counsel appointed by the court if indigent;

(E) The right to confront witnesses;

(F) The right to present witnesses;

(G) The right to have a transcript or record of the proceedings; and

(H) The right of appeal to an appropriate court.

(vi) In entering any order that directs or authorizes disposition of placement in a secure facility, the judge presiding over an initial probable cause hearing or violation hearing must determine that all the elements of a valid court order (paragraphs (f)(3) (i), (ii) and (iii) of this section) and the applicable due process rights (paragraph (f)(3)(v) of this section) were afforded the juvenile and, in the case of a violation hearing, the judge must determine that there is no less restrictive alternative appropriate to the needs of the juvenile and the community.

(vii) A non-offender such as a dependent or neglected child cannot be placed in secure detention or correctional facilities for violating a valid court order.

(4) *Removal Exception (Section 223(a)(14)).* The following conditions must be met in order for an accused juvenile criminal-type offender, awaiting an initial court appearance, to be detained up to 24 hours (excluding weekends and holidays) in an adult jail or lockup:

(i) The State must have an enforceable State law requiring an initial court appearance within 24 hours after being taken into custody (excluding weekends and holidays);

(ii) The geographic area having jurisdiction over the juvenile is outside a metropolitan statistical area pursuant to the Bureau of Census' current designation;

(iii) A determination must be made that there is no existing acceptable alternative placement for the juvenile pursuant to criteria developed by the State and approved by OJJDP;

(iv) The adult jail or lockup must have been certified by the State to provide for the sight and sound separation of juveniles and incarcerated adults; and

(v) The State must provide documentation that the conditions in paragraphs (f)(4) (i) thru (iv) of this Section have been met and received prior approval from OJJDP. In addition, OJJDP strongly recommends that jails and lockups which incarcerate juveniles pursuant to this exception be required to provide continuous visual supervision of juveniles incarcerated pursuant to this exception.

(5) *Reporting Requirement.* The State shall report annually to the Administrator of OJJDP on the results of monitoring for section 223(a) (12), (13), and (14) of the JJDP Act. The reporting period should provide 12 months of data, but shall not be less than 6 months. Three copies of the report shall be submitted to the Administrator of OJJDP no later than December 31 of each year.

(i) To demonstrate the extent of compliance with section 223(a)(12)(A) of the JJDP Act, the report must at least include the following information for both the baseline and the current reporting periods.

(A) Dates of baseline and current reporting period.

(B) Total number of public and private secure detention and correctional facilities AND the number inspected on-site.

(C) Total number of accused status offenders and non-offenders held in any secure detention or correctional facility as defined in § 31.303(f)(2) for longer than 24 hours (not including weekends and holidays), excluding those held pursuant to the valid court order provision as defined in paragraph (f)(3) of this section.

(D) Total number of adjudicated status offenders and non-offenders held in any secure detention or correctional facility as defined in § 31.303(f)(2), excluding those held pursuant to the valid court order provision as defined in paragraph (f)(3) of this section.

(E) Total number of status offenders held in any secure detention or correctional facility pursuant to a judicial determination that the juvenile violated a valid court order as defined in paragraph (f)(3) of this section.

(ii) To demonstrate the extent to which the provisions of section 223(a)(12)(B) of the JJDP Act are being met, the report must include the total number of accused and adjudicated status offenders and non-offenders placed in facilities that are:

(A) Not near their home community;

(B) Not the least restrictive appropriate alternative; and

(C) Not community-based.

(iii) To demonstrate the progress toward and extent of compliance with section 223(a)(13) of the JJDP Act, the report must at least include the following information for both the baseline and the current reporting periods.

(A) Designated date for achieving full compliance.

(B) The total number of facilities used to detain or confine both juvenile offenders and adult criminal offenders during the past 12 months AND the number inspected on-site.

(C) The total number of facilities used for secure detention and confinement of both juvenile offenders and adult criminal offenders which did not provide adequate separation.

(D) The total number of juvenile offenders and non-offenders NOT adequately separated in facilities used for the secure detention and confinement of both juveniles and adults.

(iv) To demonstrate the progress toward and extent of compliance with section 223(a)(14) of the JJDP Act the report must at least include the following information for the baseline and current reporting periods:

(A) Dates of baseline and current reporting period.

(B) Total number of adult jails in the State AND the number inspected on-site.

(C) Total number of adult lockups in the State AND the number inspected on-site.

(D) Total number of adult jails holding juveniles during the past twelve months.

(E) Total number of adult lockups holding juveniles during the past twelve months.

(F) Total number of adult jails and lockups in areas meeting the "removal exception" as noted in paragraph (f)(4) of this section, including a list of such facilities and the county or jurisdiction in which it is located.

(G) Total number of juvenile criminal-type offenders held in adult jails in excess of six hours.

(H) Total number of juvenile criminal-type offenders held in adult lockups in excess of six hours.

(I) Total number of accused and adjudicated status offenders and non-offenders held in any adult jail or lockup.

(J) Total number of juveniles accused of a criminal-type offense who were held in excess of six hours but less than 24 hours in adult jails and lock-ups in areas meeting the "removal exception" as noted in paragraph (f)(4) of this section.

(6) *Compliance.* The State must demonstrate the extent to which the requirements of section 223(a) (12)(A), (13), and (14) of the Act are met. Should the State fail to demonstrate compliance with the requirements of this Section within designated time frames, eligibility for formula grant funding shall terminate. The compliance levels are:

(i) *Substantial compliance* with section 223(a)(12)(A) requires within three years of initial plan submission achievement of a 75% reduction in the aggregate number of status offenders and non-offenders held in secure detention or correctional facilities or removal of 100% of such offenders from secure correctional facilities only. In addition, the State must make an unequivocal commitment, through appropriate executive or legislative action, to achieving full compliance within two additional years. *Full compliance* is achieved when a State

has removed 100% of such juveniles from secure detention and correctional facilities or can demonstrate full compliance with *de minimis* exceptions pursuant to the policy criteria contained in the Federal Register of January 9, 1981 (46 FR 2566–2569).

(ii) *Compliance* with section 223(a)(13) has been achieved when a State can demonstrate that:

(A) The last submitted monitoring report, covering a full 12 months of data, demonstrates that no juveniles were incarcerated in circumstances that were in violation of section 223(a)(13); or

(B)(*1*) State law, regulation, court rule, or other established executive or judicial policy clearly prohibits the incarceration of all juvenile offenders in circumstances that would be in violation of section 223(a)(13);

(*2*) All instances of noncompliance reported in the last submitted monitoring report were in violation of, or departures from, the State law, rule, or policy referred to in paragraph (f)(6)(ii)(B)(*1*) of this section;

(*3*) The instances of noncompliance do not indicate a pattern or practice but rather constitute isolated instances; and

(*4*) Existing mechanisms for the enforcement of the State law, rule, or policy referred to in paragraph (f)(6)(ii)(B)(*1*) of this section are such that the instances of noncompliance are unlikely to recur in the future.

(iii) *Substantial compliance* with section 223(a)(14) requires the achievement of a 75% reduction in the number of juveniles held in adult jails and lockups by December 8, 1985 and that the State has made an unequivocal commitment, through appropriate executive or legislative action, to achieving full compliance within three additional years. *Full compliance* is achieved when a State demonstrates that the last submitted monitoring report, covering a full and actual 12 months of data, demonstrates that no juveniles were held in adult jails or lockups in circumstances that were in violation of section 223(a)(14). *Full compliance with de minimis exceptions* is achieved when a State demonstrates that it has met the standard set forth in either of paragraphs (f)(6)(iii) (A) or (B) of this section:

(A)(*1*) State law, court rule, or other statewide executive or judicial policy clearly prohibits the detention or confinement of all juveniles in circumstances that would be in violation of section 223(a)(14);

(*2*) All instances of noncompliance reported in the last submitted monitoring report were in violation of or departures from, the State law, rule, or policy referred to in paragraph (f)(6)(iii)(A)(*1*) of this section;

(*3*) The instances of noncompliance do not indicate a pattern or practice but rather constitute isolated instances;

(*4*) Existing mechanisms for the enforcement of the State law, rule, or policy referred to in paragraph (f)(6)(iii)(A)(*1*) of this section are such that the instances of noncompliance are unlikely to recur in the future; and

(*5*) An acceptable plan has been developed to eliminate the noncompliant incidents and to monitor the existing mechanism referred to in paragraph (f)(6)(iii)(A)(*4*) of this section.

(B) [Reserved]

(*7*) *Monitoring Report Exceptions.* States which have been determined by the OJJDP Administrator to have achieved full compliance with section 223(a)(12)(A) and compliance with section 223(a)(13) of the JJDP and which wish to be exempted from the annual monitoring report requirements must submit a written request to the OJJDP Administrator which demonstrates that:

(i) The State provides for an adequate system of monitoring jails, detention facilities, correctional facilities, and non-secure facilities to enable an annual determination of State compliance with section 223(a)(12)(A), (13), and (14) of the JJDP Act;

(ii) State legislation has been enacted which conforms to the requirements of section 223(a)(12)(A) and (13) of the JJDP Act; and

(iii) The enforcement of the legislation is statutorily or administratively prescribed, specifically providing that:

(A) Authority for enforcement of the statute is assigned;

(B) Time frames for monitoring compliance with the statute are specified; and

(C) Adequate sanctions and penalties that will result in enforcement of statute and procedures for remedying violations are set forth.

(g) *Juvenile Crime Analysis.* Pursuant to section 223(a)(8) (A) and (B) the State shall conduct an analysis of juvenile crime problems and juvenile justice and delinquency prevention needs.

(1) *Analysis.* The analysis must be provided in the multiyear application. A suggested format for the analysis is provided in the Formula Grant Application Kit.

(2) *Product.* The product of the analysis is a series of brief written problem statements set forth in the application that define and describe the priority problems.

(3) *Programs.* Applications are to include descriptions of programs to be supported with JJDP Act formula grant funds. A suggested format for these programs is included in the application kit.

(4) *Performance Indicators.* A list of performance indicators must be developed and set forth for each program. These indicators show what data will be collected at the program level to measure whether objectives and performance goals have been achieved and should relate to the measures used in the problem statement and statement of program objectives.

(h) *Annual Performance Report.* Pursuant to section 223(a) and section 223(a)(22) the State plan shall provide for submission of an annual performance report. The State shall report on its progress in the implementation of the approved programs, described in the three-year plan. The performance indicators will serve as the objective criteria for a meaningful assessment of progress toward achievement of measurable goals. The annual performance report shall describe progress made in addressing the problem of serious juvenile crime, as documented in the juvenile crime analysis pursuant to section 223(a)(8)(A).

(i) *Technical Assistance.* States shall include, within their plan, a description of technical assistance needs. Specific direction regarding the development and inclusion of all technical assistance needs and priorities will be provided in the "Application Kit for Formula Grants under the JJDPA."

(j) *Other Terms and Conditions.* Pursuant to section 223(a)(23) of the JJDP Act, States shall agree to other terms and conditions as the Administrator may reasonably prescribe to assure the effectiveness of programs assisted under the formula grant.

§ 31.304 Definitions.

(a) *Private agency.* A private non-profit agency, organization or institution is:

(1) Any corporation, foundation, trust, association, cooperative, or accredited institution of higher education not under public supervision or control; and

(2) Any other agency, organization or institution which operates primarily for scientific, education, service, charitable, or similar public purposes, but which is not under public supervision or control, and no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or individual, and which has been held by IRS to be tax-exempt under the provisions of section 501(c)(3) of the 1954 Internal Revenue Code.

(b) *Secure.* As used to define a detention or correctional facility this

term includes residential facilities which include construction fixtures designed to physically restrict the movements and activities of persons in custody such as locked rooms and buildings, fences, or other physical structures. It does not include facilities where physical restriction of movement or activity is provided solely through facility staff.

(c) *Facility.* A place, an institution, a building or part thereof, set of buildings or an area whether or not enclosing a building or set of buildings which is used for the lawful custody and treatment of juveniles and may be owned and/or operated by public and private agencies.

(d) *Juvenile who is accused of having committed an offense.* A juvenile with respect to whom a petition has been filed in the juvenile court or other action has occurred alleging that such juvenile is a juvenile offender, i.e., a criminal-type offender or a status offender, and no final adjudication has been made by the juvenile court.

(e) *Juvenile who has been adjudicated as having committed an offense.* A juvenile with respect to whom the juvenile court has determined that such juvenile is a juvenile offender, i.e., a criminal-type offender or a status offender.

(f) *Juvenile offender.* An individual subject to the exercise of juvenile court jurisdiction for purposes of adjudication and treatment based on age and offense limitations by defined as State law, i.e., a criminal-type offender or a status ffender.

(g) *Criminal-type offender.* A juvenile offender who has been charged with or adjudicated for conduct which would, der the law of the jurisdiction in which the offense was committed, be a crime if committed by an adult.

(h) *Status offender.* A juvenile offender who has been charged with or adjudicated for conduct which would not, under the law of the jurisdiction in which the offense was committed, be a crime if committed by an adult.

(i) *Non-offender.* A juvenile who is subject to the jurisdiction of the juvenile court, usually under abuse, dependency, or neglect statutes for reasons other than legally prohibited conduct of the juvenile.

(j) *Lawful custody.* The exercise of care, supervision and control over a juvenile offender or non-offender pursuant to the provisions of the law or of a judicial order or decree.

(k) *Other individual accused of having committed a criminal offense.* An individual, adult or juvenile, who has been charged with committing a criminal offense in a court exercising criminal jurisdiction.

(l) *Other individual convicted of a criminal offense.* An individual, adult or juvenile, who has been convicted of a criminal offense in court exercising criminal jurisdiction.

(m) *Adult jail.* A locked facility, administered by State, county, or local law enforcement and correctional agencies, the purpose of which is to detain adults charged with violating criminal law, pending trial. Also considered as adult jails are those facilities used to hold convicted adult criminal offenders sentenced for less than one year.

(n) *Adult lockup.* Similar to an adult jail except that an adult lockup is generally a municipal or police facility of a temporary nature which does not hold persons after they have been formally charged.

(o) *Valid Court Order.* The term means a court order given by a juvenile court judge to a juvenile who has been brought before the court and made subject to a court order. The use of the word "valid" permits the incarceration of juveniles for violation of a valid court order only if they received their full due process rights as guaranteed by the Constitution of the United States.

(p) *Local Private Agency.* For the purposes of the pass-through requirement of section 223(a)(5), a local private agency is defined as a private non-profit agency or organization that provides program services within an identifiable unit or a combination of units of general local government.

Subpart E—General Conditions and Assurances

§ 31.400 Compliance with statute.

The applicant State must assure and certify that the State and its subgrantees and contractors will comply with applicable provisions of the Omnibus Crime Control and Safe Streets Act of 1968, Pub. L. 90–351, as amended, and with the provisions of the Juvenile Justice and Delinquency Prevention Act of 1974, Pub. L. 93–415, as amended, and the provisions of the current edition of OJP Financial and Administrative Guide for Grants, M 7100.1.

§ 31.401 Compliance with other Federal laws, orders, circulars.

The applicant State must further assure and certify that the State and its subgrantees and contractors will adhere to other applicable Federal laws, orders and OMB circulars. These general Federal laws and regulations are described in greater detail in the Financial and Administrative Guide for Grants, M 7100.1, and the Formula Grant Application Kit.

§ 31.402 Application on file.

Any Federal funds awarded pursuant to an application must be distributed and expended pursuant to and in accordance with the programs contained in the applicant State's current approved application. Any departures therefrom, other than to the extent permitted by current program and fiscal regulations and guidelines, must be submitted for advance approval by the Administrator of OJJDP.

§ 31.403 Non-discrimination.

The State assures that it will comply, and that subgrantees and contractors will comply, with all applicable Federal non-discrimination requirements, including:

(a) Section 809(c) of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and made applicable by Section 262(a) of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended;

(b) Title VI of the Civil Rights Act of 1964;

(c) Section 504 of the Rehabilitation Act of 1973, as amended;

(d) Title IX of the Education Amendments of 1972;

(e) The Age Discrimination Act of 1975; and

(f) The Department of Justice Non-discrimination Regulations, 28 CFR Part 42, Subparts C, D, E, and G.

Alfred S. Regnery,

Administrator, Office of Juvenile Justice and Delinquency Prevention.

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[Part 3]

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Part II

Department of Justice

Office of Juvenile Justice and Delinquency Prevention

28 CFR Part 31

Proposed OJJDP Policy Guidance for Nonsecure Custody of Juveniles in Adult Jails and Lockups; Request for Public Comment; Notice

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

28 CFR Part 31

Proposed OJJDP Policy Guidance for Nonsecure Custody of Juveniles in Adult Jails and Lockups; Request for Comments

AGENCY: Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, Justice.

ACTION: Request for public comment.

SUMMARY: The Office of Juvenile Justice and Delinquency Prevention (OJJDP), pursuant to section 262(d) (42 U.S.C. 5672(d) of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, 42 U.S.C. 5601, *et. seq.* (JJDP Act), proposes to issue a policy to provide guidance to states participating in the JJDP Act Formula Grants Programs for determining when a juvenile held in nonsecure custody within a building that houses an adult jail or lockup facility is considered to be "detained or confined in any jail or lockup for adults" for purposes of state monitoring for compilance with section 223(a)(14) (42 U.S.C 5633(a)(14)) of the JJDP Act.

DATE: Interested persons are invited to submit written comments on or before March 1, 1988.

ADDRESS: Address all comments to Mr. Verne L. Speirs, Administrator, Office of Juvenile Justice and Delinquency Prevention (OJJDP), 633 Indiana Avenue NW., Room 1142, Washington, DC 20531.

FOR FURTHER INFORMATION CONTACT: Emily C. Martin, Acting Director, State Relations and Assistance Division, Office of Juvenile Justice and Delinquency Prevention (OJJDP), 633 Indiana Avenue NW., Room 768, Washington, DC 20531; telephone (202) 724-5921.

SUPPLEMENTARY INFORMATION:

I. Introduction and Background

In an effort to comply with the provisions of the JJDP Act, particularly the jail removal mandate, section 223(a)(14), staff of state administering agencies and facility administrators are often called upon to identify alternatives to holding juveniles in jail cells or lockups while law enforcement officers carry out their responsibilities of identification, investigation, processing, release to parent(s) or guardian, hold for transfer to an appropriate juvenile detention or shelter facility, or transfer to court. OJJDP recognizes that during this interim period, a balance must be struck between the statutory objective of not holding juveniles in jail cells or lockups beyond the six hour temporary holding period permitted for accused criminal-type offenders (limited to circumstances where they will not be in sight or sound contact with adult prisoners), and not allowing juveniles in temporary law enforcement custody to disrupt police operations or to leave a police, sheriff or municipal facility without authorization.

Section 31.304(m) of the OJJDP Formula Grant Regulation published in the June 20, 1985, **Federal Register** on pages 25550–25561 (28 CFR Part 31), defines an *adult jail* as:

> A locked facility, administered by state, county, or local law enforcement and correctional agencies, the purpose of which is to detain adults charged with violating criminal law, pending trail. Also considered as adult jails are those facilities used to hold convicted adult criminal offenders sentenced for less than one year.

Section 31.304(n) of the Formula Grant Regulation defines an *adult lockup* as:

> Similar to an adult jail except that an adult lockup is generally a municipal or police facility of a temporary nature which does not hold persons after they have been formally charged.

While these definitions provide general parameters, the efforts of state agency staff to monitor compliance with the JJDP Act jail removal requirement and to identify alternatives, indicate a need for specific guidelines to identify when a juvenile is being improperly detained or confined in an adult jail or lockup as opposed to being in nonsecure custody in a building that houses an adult jail or lockup facility, but not being detained or confined within a room or set of rooms that constitute a jail cell or lockup facility.

In making this determination, it is critical to first distinguish between nonsecure custody and secure detention. A juvenile may be in law enforcement custody and, therefore, not free to leave or depart from the presence of a law enforcement officer or at liberty to leave the premises of a law enforcement facility, but not be in a secure detention or confinement status.

II. Secure Detention

A secure detention or confinement status has occurred within a jail or lockup facility when a juvenile is physically detained or confined in a locked room, set of rooms, or a cell that is designated, set aside or used for the specific purpose of securely detaining persons who are in law enforcement custody. Secure detention or confinement may result either from being locked in a room or enclosure and/or from being physically secured to a cuffing rail or other stationary object.

III. Nonsecure Custody

When a juvenile is being held in a custody status in a building housing an adult jail or lockup, it is necessary to determine whether the area of the building where the juvenile is being held constitutes an adult jail or lockup. The criteria that follow are offered to assist state agency staff and facility administrators in identifying alternatives to the use of adult jails and lockups to detain or confine juveniles who are in temporary law enforcement custody.

The following criteria assume that immediate transfer of a juvenile to a juvenile detention center or appropriate nonsecure facility is not possible, and that no area is available within the building or on the grounds that qualifies as a separate juvenile detention facility under the requirements set forth in the Formula Grant Regulation at 28 CFR 31.303(e)(3)(i). The criteria are designed to provide guidance in identifying practices that do not constitute violations of the statutory jail removal requirement. They are not offered as standards for practice, nor do they supersede any state laws, policies, or guidelines.

IV. Criteria—Law Enforcement Facilities

The following criteria, if satisfied, would constitute nonsecure custody of a juvenile in a building that houses an adult jail or lockup facility:

(a) The area where the juvenile is held is an unlocked multi-purpose area, such as a lobby, office, or interrogation room which is not designed, set aside or used as a secure detention area or is not a part of such an area (for example, a contiguous or secure booking area or sallyport); (b) the juvenile is not physically secured to a cuffing rail or other stationary object during the period of custody in the area; (c) the use of the area is limited to providing nonsecure custody only long enough and for the purpose of identification, investigation, release to parents, or arranging transfer to an appropriate juvenile facility or to court; (d) in no event can the area be designed or intended to be used for

residential purposes, and (e) the juvenile must be under continuous visual supervision by a law enforcement officer or facility staff during the period of time that he or she is in nonsecure custody.

V. Criteria—Court Holding Facilities

A court holding facility is a secure facility, other than an adult jail or lockup, that is used to temporarily detain persons immediately before or after a detention, preliminary bail hearing, or another court proceeding. Court holding facilities, where they do not detain individuals overnight and are not used for punitive purposes or other purposes unrelated to a court appearance, are not considered adult jails or lockups for purposes of section 223(a)(14) of the JJDP Act. However, such facilities remain subject to the section 223(a)(13) (42 U.S.C. 5633(a)(13)) separation requirement of the Act.

Executive Order 12291

This notice does not constitute a "major" rule as defined by Executive Order 12291 because it does not result in: (a) An effect on the economy of $100 million or more, (b) a major increase in any costs or prices, or (c) adverse effects on competition, employment, investment, productivity, or innovation among American enterprises.

Regulatory Flexibility Act

This proposed rule, if promulgated, will not have a "significant" economic impact on a substantial number of small "entities", as defined by the Regulatory Flexibility Act (Pub. L. 96–354).

Paperwork Reduction Act

No collection of information requirements are contained in or effected by this guideline (See the Paperwork Reduction Act 44 U.S.C. 3504(h)).

Verne L. Speirs,

Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 88–1654 Filed 1–27–88; 8:45 am]

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Federal Register

Thursday
June 9, 1988

Part III

Department of Justice

Office of Justice Programs

Office of Juvenile Justice and Delinquency Prevention

28 CFR Part 31

Criterion for De Minimis Exceptions to Full Compliance With the Jail Removal Requirement; Proposed Rule

DEPARTMENT OF JUSTICE

Office of Justice Programs

Office of Juvenile Justice and Delinquency Prevention

28 CFR Part 31

Proposed Regulation To Establish an OJJDP Policy and Criterion for De Minimis Exceptions to Full Compliance With the Jail Removal Requirement of Section 223(a)(14) of the Juvenile Justice and Delinquency Prevention Act of 1974, as Amended

AGENCY: Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, Justice.

ACTION: Proposed rule.

SUMMARY: The Office of Juvenile Justice and Delinquency Prevention (OJJDP), pursuant to section 262(d)) (42 U.S.C. 5672(d) of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, 42 U.S.C. 5601, *et. seq.* (JJDP Act), proposes to revise its Formula Grants Regulation to establish an OJJDP policy and criterion for determining full compliance with de minimis exceptions to the jail removal requirement of section 223(a)(14) (42 U.S.C. 5633(a)(14)) of the JJDP Act, as amended.

DATE: Interested persons are invited to submit written comments on or before July 11, 1988.

FOR FURTHER INFORMATION CONTACT: Emily C. Martin, Director, State Relations and Assistance Division, OJJDP, 633 Indiana Avenue NW., Room 766, Washington, DC 20531, (202) 724–5924.

SUPPLEMENTARY INFORMATION:

I. Introduction and Background

Section 223(a)(14) of the JJDP Act requires that States participating in the Formula Grants Program "(14) provide that, beginning after the five-year period following December 8, 1980, no juvenile shall be detained or confined in any jail or lockup for adults, except that the Administrator shall, through 1989, promulgate regulations which make exceptions with regard to the detention of juveniles accused of non-status offenses who are awaiting an initial court appearance pursuant to an enforceable State law requiring such appearance within twenty-four hours after being taken into custody (excluding weekends and holidays) * * *" Section 223(a)(14) limits this exception to areas that are outside a standard metropolitan statistical area.

Section 223(c) of the JJDP Act further provides that a State's "(c) * * * Failure to achieve compliance with the requirements of subsection (a)(14) within the five-year time limitation shall terminate any State's eligibility for funding under this subpart, unless the Administrator determines that: (1) The State is in substantial compliance with such requirement through the achievement of not less than 75 percent removal of juveniles from jails and lockups for adults; and (2) the State has made through appropriate executive or legislative action, an unequivocal commitment to achieving full compliance within a reasonable time, not to exceed three additional years."

Section 31.303(f)(6)(iii) of the OJJDP Formula Grants Regulation, which was published in the June 20, 1985, **Federal Register**, at pages 25550–25561, 28 CFR Part 31, establishes three ways for a State to demonstrate full compliance with the section 223(a)(14) requirement. First, "Full compliance is achieved when a State demonstrates that the last submitted monitoring report, covering a full and actual 12 months of data, demonstrates that no juveniles were held in adult jails or lockups in circumstances that were in violations of section 223(a)(14)." (28 CFR 31.303(f)(6)(iii).

The remaining two ways to demonstrate full compliance involve the legal concept of de minimis. First, a State may be found in full compliance with de minimis exceptions where all instances of noncompliance violated a State law, court rule, or other statewide executive or judicial policy; the instances of noncompliance do not indicate a pattern or practice; an enforcement mechanism exists; and, an acceptable plan has been developed to eliminate the noncompliant incidents (28 CFR 31.303(f)(6)(iii)(A)).

The second way a State may demonstrate full compliance with de minimis exceptions is to achieve a rate of noncompliant incidents, per 100,000 juvenile population in the State, that falls below the maximum rate determined by OJJDP to constitute a de minimis rate as set forth below and proposed to be added to the subject Formula Grants Regulation as 28 CFR 31.303(f)(6)(iii)(B). OJP Office of General Counsel Legal 76–7 provides the legal basis for the OJJDP to use the de minimis principle. That is, the OJJDP may tolerate a limited number of instances of noncompliance (the legal opinion addressed the deinstitutionalization of status offenders requirement) that are of "slight consequence" or "insignificant" in making a determination regarding a State's achieving full compliance.

A potential consideration in a State's ability to demonstrate full compliance with de minimis exceptions to jail removal is the presence of Federal wards. If public comments indicate the need to address this issue, a limited exceptional circumstance may be added to 28 CFR 31.303(f)(6)(iii)(B).

II. Policy and Criterion for De Minimis Exceptions to Full Compliance With the Jail Removal Requirement

The criterion presented below and set forth in the proposed regulation will be applied by OJJDP in determining whether a State has achieved and, once achieved, has maintained, a numerical finding of full compliance with de minimis exceptions with the jail and lockup removal requirement of section 223(a)(14). Also specified is the time frame for submitting information which each State must provide when requesting an initial or subsequent finding of full compliance with de minimis exceptions under 28 CFR 31.303(f)(6)(iii)(B).

Discussion of Criterion

The criterion for making a finding of full compliance with de minimis exceptions is that the incidents of noncompliance are insignificant or of slight consequence in terms of the total juvenile population in the state.

In applying this criterion, OJJDP will compare each State's noncompliance rate per 100,000 population under age 18 to the average rate that has been calculated for 12 states (three states from each of the four Bureau of Census regions). The 12 states selected by OJJDP were those having the lowest rates of noncompliance per 100,000 juvenile population, and which had an adequate system of monitoring for compliance. Those states using the non-MSA exception, provided for in Section 223(a)(14), were not included in calculating the average. Inclusion of these states would have created an artificially low average because the exception expires in 1989.

The information provided by the 12 States' 1986 Monitoring Reports indicated an average annual rate of nine (9) incidents of noncompliance per 100,000 juvenile population. Consequently, those states which have a noncompliance rate in excess of 9 per 100,000 juvenile population will be considered presumptively ineligible for a finding of full compliance with de minimis exceptions, pursuant to § 31.303(f)(6)(iii)(B) of the Formula Grants Regulation.

Where a State can demonstrate, however, that recently enacted changes

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in State law which have gone into effect can reasonably be expected to have a substantial, significant and positive impact on the State's level of compliance, OJJDP will consider this exceptional circumstance in making its determination of full compliance with de minimis exceptions. This exceptional circumstance will only be applied where the legislation is expected to produce full (100%) compliance or full compliance with de minimis exceptions by the end of the monitoring period immediately following the monitoring period under consideration.

OJJDP deems it to be a requirement of critical importance that all States requesting a subsequent finding of full compliance with de minimis exceptions annually demonstrate continued and meaningful progress toward 100 percent compliance in order to remain eligible for a finding of full compliance with de minimis exceptions pursuant to § 31.303(f)(6)(iii)(B) of the Formula Grants Regulation.

List of Subjects in 28 CFR Part 31

Grant programs-law, Juvenile delinquency, Reporting and recordkeeping requirement.

Proposed Regulation

PART 31—[AMENDED]

1. The authority citation for Part 31 continues to read as follows:

Authority: Juvenile Justice and Delinquency Prevention Act of 1974, as amended, (42 U.S.C. 5601 et seq.)

2. A new paragraph (f)(6)(iii)(B), currently designated as "Reserved" in 28 CFR 31.303, is added to read as follows:

§ 31.303 Substantive requirements.

(f) * * *
(6) * * *
(iii) * * *

(B)(*1*) *Standard.* The State must demonstrate that each of the following requirements has been met.

(*i*) The incidents of noncompliance reported in the State's last submitted monitoring report do not exceed an annual rate of 9 per 100,000 juvenile population of the State; and

(*ii*) An acceptable plan has been developed to eliminate the noncompliant incidents through the enactment or enforcement of State law, rule, or statewide executive or judicial policy, education, the provision of alternatives, or other effective means.

(*2*) *Exception.* When the annual rate for a State exceeds 9 incidents of noncompliance per 100,000 juvenile population, the State will be considered ineligible for a finding of full compliance with *de minimis* exceptions under the numerical *de minimis* standard unless the State has recently enacted changes in State law which have gone into effect and which the State demonstrates can reasonably be expected to have a substantial, significant and positive impact on the State's achieving full (100%) compliance or full compliance with *de minimis* exceptions by the end of the monitoring period immediately following the monitoring period under consideration.

(*3*) *Progress.* Beginning with the monitoring report due by December 31, 1990, any State whose prior full compliance status is based on having met the numerical *de minimis* standard set forth in paragraph (f)(6)(iii)(B)*(1)(i)* and *(ii)* of § 31.303, must annually demonstrate, in its request for a finding of full compliance with *de minimis* exceptions, continued and meaningful progress toward achieving full (100%) compliance in order to maintain eligibility for a continued finding of full compliance with *de minimis* exceptions.

(*4*) *Request Submission.* Determinations of full compliance and full compliance with *de minimis* exceptions are made annually by OJJDP following submission of the monitoring report due by December 31 of each calendar year. Any State reporting less than full (100%) compliance in any annual monitoring report may request a finding of full compliance with *de minimis* exceptions under paragraph (f)(6)(iii)(A) or (B) of § 31.303. The request may be submitted in conjunction with the monitoring report, as soon thereafter as all information required for a determination is available, or be included in the annual State plan and application for the State's Formula Grant Award.

* * * * *

Executive Order 12291

This regulation does not constitute a "major" rule as defined by Executive Order 12291 because it does not result in: (a) an effect on the economy of $100 million or more, (b) major increase in any costs or prices, or (c) adverse effects on competition, employment, investment, productivity, or innovation among American enterprises.

Regulatory Flexibility Act

This proposed rule, if promulgated, will not have "significant" economic impact on a substantial number of small "entities", as defined by the Regulatory Flexibility Act (Pub. L. 96–354).

Paperwork Reduction Act

No new collection of information requirements are contained in this guideline (See the Paperwork Reduction Act, 44 U.S.C. 3504(h)).

Verne L. Speirs,

Administrator, Office of Juvenile Justice and Deliquency Prevention.

[FR Doc. 88–12917 Filed 6–8–88; 8:45 am]
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federal register

Wednesday
November 2, 1988

Part V

Department of Justice

Office of Justice Programs

Office of Juvenile Justice and Delinquency Prevention

28 CFR Part 31

Policy Guidance for Nonsecure Custody of Juveniles in Adult Jails and Lockups; Notice of Final Policy

DEPARTMENT OF JUSTICE

Office of Justice Programs

Office of Juvenile Justice and Delinquency Prevention

28 CFR Part 31

Policy Guidance for Nonsecure Custody of Juveniles in Adult Jails and Lockups

AGENCY: Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, Justice.

ACTION: Notice of final policy.

SUMMARY: The Office of Juvenile Justice and Delinquency Prevention (OJJDP), pursuant to the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, (JJDP Act) is publishing a policy to provide guidance to states participating in the JJDP Act Formula Grants Program for determining when a juvenile held within a building that houses an adult jail or lockup facility is considered to be in nonsecure custody for purposes of state monitoring for compliance with section 223(a)(14) of the JJDP Act.

EFFECTIVE DATE: This policy is effective November 2, 1988.

FOR FURTHER INFORMATION CONTACT: Emily C. Martin, Director, State Relations and Assistance Division, Office of Juvenile Justice and Delinquency Prevention (OJJDP), 633 Indiana Avenue, NW., Room 768, Washington, DC 20531; telephone (202) 724-5921.

I. Introduction and Background

In an effort to comply with the jail lockup removal mandate, section 223(a)(14) (42 U.S.C. 5633(a)(14)) of the JJDP Act, staff of state administering agencies and facility administrators are often called upon to identify alternatives to holding juveniles in jail cells or lockups while law enforcement officers carry out their responsibilities of identification, investigation, processing, release to parent(s) or guardian, hold for transfer to an appropriate juvenile detention or shelter facility, or transfer to court. the OJJDP recognizes that during this interim period, a balance must be struck between the statutory objective of not holding juveniles in jail cells or lockup areas beyond the six hour temporary holding period permitted for accused criminal-type offenders (a juvenile alleged to have committed, or charged with an offense that would be a crime if committed by an adult); and, not allowing juveniles in temporary law enforcement custody to disrupt police operations or to leave a police, sheriff or municipal facility without authorization.

Section 31.304(m) of the OJJDP Formula Grants Regulation published in the June 20, 1985, Federal Register on pages 25550–25561 (28 CFR Part 312, defines an *adult jail* as:

> A locked facility, administered by state, county, or local law enforcement and correctional agencies, the purpose of which is to detain adults charged with violating criminal law, pending trial. Also considered as adult jails are those facilities used to hold convicted adult criminal offenders sentenced for less than one year.

Section 31.304(n) of the Formula Grants Regulation defines an *adult lockup* as:

> Similar to an adult jail except that an adult lockup is generally a municipal or police facility of a temporary nature which does not hold persons after they have been formally charged.

While these definitions provide general parameters, the efforts of state agency staff to monitor compliance with the JJDP Act jail and lockup removal requirement and to identify alternatives indicate a need for specific guidelines to identify when a juvenile is being securely detained or confined in an adult jail or lockup area. In making this determination, it is critical to distinguish between nonsecure custody and secure detention or confinement (for purposes of this policy, the terms secure detention or confinement, secure cutsody, and secure holding are synonymous). A juvenile may be in law enforcement custody and, therefore, not free to leave or depart from the presence of a law enforcement officer or at liberty to leave the premises of a law enforcement facility, but not be in a secure detention or confinement status.

A secure detention or confinement status has occurred within a jail or lockup facility when a juvenile is physically detained or confined in a locked room, set of rooms, or a cell that is designated, set aside or used for the specific purpose of securely detaining persons who are in law enforcement custody. Secure detention or confinement may result either from being placed in such a room or enclosure and/or from being physically secured to a cuffing rail or other stationary object.

This policy is designed to assist state agency staff and facility administrators in identifying non-secure alternatives for custody of juveniles within law enforcement facilities. The policy assumes that immediate access or transfer of a juvenile to a juvenile detention center or appropriate nonsecure facility is not possible, and that no area is available within the building or on the grounds that qualifies as a separate juvenile detention facility under the requirements set forth in the Formula Grants Regulation at 28 CFR 31.303(e)(3)(i). This policy provides guidance in identifying practices that do not constitute violations of the statutory jail removal requirement. As such, it reflects the effective strategies many law enforcement jurisdictions are using to achieve jail removal. The policy is not offered as standards for practice, nor does it surpersede any state laws, policies or guidelines.

II. Discussion of Comments

A proposed policy was published was published in the Federal Register on January 28, 1988, for public comment. Comments were received from 12 national, state, and local organizations. All comments have been considered by the OJJDP in the issuance of a final policy.

The following is a summary of the comments and the response by OJJDP:

1. *Comment:* Booking areas used to process juveniles and adults are different to classify because there are wide variations in their configurations and levels of security. Respondents indicated that it is unclear whether OJJDP considers booking areas to be secure or nonsecure.

Response: While a booking area may be secure, a juvenile being processed "through" this area is not considered to be in a secure detention status.

Where a secure booking area is all that is available, and continuous visual supervision is provided throughout the booking process, and the juvenile only remains in the booking area long enough to be photographed and fingerprinted (consistent with state law and/or judicial rules), the juvenile will not be considered in a secure detention status. Continued nonsecure custody for the purposes of interrogation, contacting parents, or arranging an alternative placement must occur outside the booking area.

2. *Comment:* Two respondents indicated that a prohibition on handcuffing juveniles to a cuffing rail or other stationary objects is not a viable restriction given safety and cost considerations.

Response: OJJDP understands that many juveniles taken into custody pose a potential risk to self and/or law enforcement officers. Clearly, the officer taking a juvenile into custody must rely on his or her judgement of the level of risk posed by the juvenile.

It is, however, OJJDP's responsibility to clearly define when a juvenile taken

into custody enters a secure detention status. Where an officer determines that a juvenile taken into custody as an *accused* criminal-type offender must be handcuffed to a cuffing rail or other stationary object, or placed in a cell or lockup area, this is permissible under § 31.303(f)(5)(iv)(H) of the OJJDP Formula Grants Regulation (28 CFR 31), for up to six hours. It should be noted, however, that for monitoring purposes, the six hour, "grace period" begins to run when the juvenile enters a secure detention status and ends six hours later.

It is also important to point out that handcuffing techniques that do not involve cuffing rails or other stationary objects will be considered nonsecure custody where the additional criteria for nonsecure custody set forth in this policy are adhered to. Thus, juvenile offenders can be considered in nonsecure custody, even though handuffed, where necessary, so long as a stationary object is not in use.

3. *Comment:* Two respondents expressed concern that without a time limit on nonsecure custody, juveniles could end up spending more time in law enforcement facilities than at present. It was recommended that nonsecure custody be limited to six hours.

Response: One criterion in the policy for determining that custody is nonsecure is that the area where the juvenile remains not be designed or intended for use as a residential area. This reflects OJJDP's policy that if a juvenile is to remain in custody long enough to require residential services, the juvenile should be moved to an apppropriate juvenile residential facility as soon as this need is identified. Once an area of a jail or lockup facility begins to be used for residential purposes, the juvenile will be considered to be in a secure detention status.

Beyond this "nonresidential" requirement, and the other limiting criteria in this policy, the JJDP Act does not confer upon the OJJDP the authority to limit the length of nonsecure custody.

4. *Comment:* One respondent stated that recordkeeping deficiencies at the facility level often make it difficult to determine when juveniles are placed in cells or other secure holding areas, and that this problem will also exist in attempting to monitor the handcuffing of juveniles to cuffing rails or other stationary objects.

Response: Each participating state is required, pursuant to section 223(a)(15) of the JJDP Act, to have an adequate monitoring system. It is expected that states will work with local facilities to develop adequate recordkeeping procedures.

As for recording juveniles placed in a holding cell or other secure area, many police departments handle this by adding the designation "cell" or "secure" to their juvenile admission/booking log. Departments should be particularly willing to do this when liability factors are taken into consideration, i.e., in the event of litigation, departments need to know if a juvenile was or was not placed in a secure area or in a secure detention status, and if so, for how long.

5. *Comment:* Three respondents suggested that the policy does not address the separation provision, section 223(a)(13) of the JJDP Act.

Response: The policy is designed to identify nonsecure alternatives for the custody and handling of juveniles within law enforcement facilities. The section 223(a)(13) separation requirement of the JJDP Act does not apply to juveniles in a nonsecure custody status.

6. *Comment:* One respondent indicated that court holding facilities should be subject to the Deinstitutionalization of Status Offenders provision, section 223(a)(12)(A) of the JJDP Act. Another suggested adding requirements for staff supervision and time limits for court holding facilities.

Response: Section 223(a)(12)(A) of the JJDP Act requires the removal of status and nonoffenders from secure detention and correctional facilities. Section 103 of the Act defines both facility categories to mean "residential" facilities.

This policy clearly states that in order for a court holding facility to be exempt from the adult jail and lockup removal provision of the JJDP Act, it must be nonresidential. The policy also states that the court holding facility cannot be used for punitive purposes or other purposes unrelated to a court appearance, and it confirms that the section 223(a)(13) separation requirement applies to court holding facilities. These requirements pertain to status and nonoffenders, as well as to criminal-type offenders.

As for time limitations, the nonresidential requirement does impose an inherent or practical time limitation. That is, the juvenile must be brought to and removed from the facility during the same judicial day.

The final policy does not address the level of supervision necessary in court holding facilities. However, it is clearly essential that sufficient levels of supervision be provided to ensure the safety of those juveniles before the court, and the integrity of the court process itself.

Executive Order 12291

This notice does not constitute a "major" rule as defined by Executive Order 12291 because it does not result in: (a) An effect on the economy of $100 million or more, (b) a major increase in any costs or prices, or (c) adverse effects on competition, employment, investment, productivity, or innovation among American enterprises.

Regulatory Flexibility Act

This policy does not have a "significant" economic impact on a substantial number of small "entities", as defined by the Regulatory Flexibility Act (Pub. L. 96.354).

Paperwork Reduction Act

No collection of information requirements are contained in or effected by this guideline (See the Paperwork Reduction Act, 44 U.S.C. 3504(h)).

List of Subjects in 28 CFR Part 31

Grant programs—law, Juvenile delinquency, Reporting and recordkeeping requirement.

III. Policy: Criteria for Law Enforcement Facilities

The following policy criteria, if satisfied, will constitute nonsecure custody of a juvenile in a building that houses an adult jail or lockup facility:

(1) The area(s) where the juvenile is held is an unlocked multi-purpose area, such as a lobby, office, or interrogation room which is not designated, set aside or used as a secure detention area or is not a part of such an area, or, if a secure area, is used only for processing purposes; (2) The juvenile is not physically secured to a cuffing rail or other stationary object during the period of custody in the facility; (3) the use of the area(s) is limited to providing nonsecure custody only long enough and for the purposes of identification, investigation, processing, release to parents, or arranging transfer to an appropriate juvenile facility or to court; (4) in no event can the area be designed or intended to be used for residential purposes; and (5) the juvenile must be under continuous visual supervision by a law enforcement officer or facility staff during the period of time that he or she is in nonsecure custody.

IV. Policy: Criteria for Court Holding Facilities

A court holding facility is a secure facility, other than an adult jail or lockup, that is used to temporarily detain persons immediately before or after detention hearings, or other court proceedings. Court holding facilities, where they do not detail individuals

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overnight (i.e., are not residential) and are not used for punitive purposes or other purposes unrelated to a court appearance, are not considered adult jails or lockups for purposes of section 223(a)(14) of the JJDP Act. However, such facilities remain subject to the section 223(a)(13) (42 U.S.C. 5633(a)(13)) separation requirement of the Act.

Verne L. Speirs,

Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 88-25378 Filed 11-1-88; 8:45 am]

BILLING CODE 4410-18-M

Wednesday
November 2, 1988

Part VI

Department of Justice

Office of Justice Programs

Office of Juvenile Justice and Delinquency Prevention

28 CFR Part 31

Criteria for de Minimis Exceptions to Full Compliance With the Jail Removal Requirement; Final Rule

DEPARTMENT OF JUSTICE

Office of Justice Programs

Office of Juvenile Justice and Delinquency Prevention

28 CFR Part 31

Criteria for De Minimis Exceptions to Full Compliance With the Jail Removal Requirement

AGENCY: Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, Justice.

ACTION: Final rule.

SUMMARY: The Office of Juvenile Justice and Delinquency Prevention (OJJDP), pursuant to section 262(d) (42 U.S.C. 5672(d)) of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, 42 U.S.C. 5601 *et seq.* (JJDP Act), revises its Formula Grants Regulation to include criteria for determining full compliance with de minimis exceptions to the jail removal requirement of section 223(a)(14) (42 U.S.C. 5633(a)(14)) of the JJDP Act, as amended.

EFFECTIVE DATE: This rule is effective November 2, 1988.

FOR FURTHER INFORMATION CONTACT: Emily C. Martin, Director, State Relations and Assistance Division, OJJDP, 633 Indiana Avenue NW., Room 768, Washington, DC 20531, (202) 724–5921.

SUPPLEMENTARY INFORMATION:

I. Introduction and Background

Section 223(a)(14) of the JJDP Act requires that States participating in the Formula Grants Program "(14) provide that, beginning after the five-year period following December 8, 1980, no juvenile shall be detained or confined in any jail or lockup for adults, except that the Administrator shall through 1989, promulgate regulations which make exceptions with regard to the detention of juveniles accused of non-status offenses who are awaiting an initial court appearance pursuant to an enforceable State law requiring such appearance within twenty-four hours after being taken into custody (excluding weekends and holidays) * * *." Section 223(a)(14) limits this exception to areas that are outside a standard metropolitan statistical area.

Section 233(c) of the JJDP Act further provides that a State's "(c) * * * Failure to achieve compliance with the requirements of Subsection (a)(14) within the five-year time limitation shall terminate any State's eligibility for funding under this subpart, unless the Administrator determines that: (1) The State is in substantial compliance with such requirement through the achievement of not less than 75 percent removal of juveniles from jails and lockups for adults; and (2) the State has made through appropriate executive or legislative action, an unequivocal commitment to achieving full compliance within a reasonable time, not to exceed three additional years."

Section 31.303(f)(6)(iii) of the OJJDP Formula Grants Regulation, which was published in the June 20, 1985, **Federal Register**, at pages 25550–25561, 28 CFR Part 31, establishes three ways for a State to demonstrate full compliance with the section 223(a)(14) requirement. First, "Full compliance is achieved when a State demonstrates that the last submitted monitoring report, covering a full and actual 12 months of data, demonstrates that no juveniles were held in adult jails or lockups in circumstances that were in violation of section 223(a)(14)" (28 CFR 31.303(f)(6)(iii)).

The remaining two ways to demonstrate full compliance involve the legal concept of de minimis. First, a State may be found in full compliance with de minimis exceptions where all instances of noncompliance violated a State law, court rule, or other statewide executive or judicial policy; the instances of noncompliance do not indicate a pattern or practice; an enforcement mechanism exists; and, an acceptable plan has been developed to eliminate the noncompliant incidents (28 CFR 131.303(f)(6)(iii)(A)).

Second, a State may demonstrate full compliance by achieving a rate of noncompliant incidents, per 100,000 juvenile population in the State, that falls below the de minimis rate established by OJJDP. This de minimis rate, as set forth below, is being added to the OJJDP Formula Grants Regulation at § 31.303(f)(6)(iii)(B) which is currently designated "Reserved."

Office of Justice Programs Office of General Counsel Legal Opinion 76–7 provides the legal basis upon which OJJDP establishes this de minimis exception. Specifically, the legal opinion allows OJJDP to tolerate a limited number of instances of noncompliance (the legal opinion addressed the deinstitutionalization of status offenders requirement) that are of "slight consequence" or "insignificant" in making a determination regarding a State's achieving full compliance.

II. Discussion of Comments

A proposed policy was published in the **Federal Register** on June 9, 1988, for public comment. One comment was received and has been considered by the OJJDP in the issuance of a final policy.

1. *Comment:* Each State should have the option of providing the juvenile population figure to be used in calculating the de minimis rate for the year in which this exception is requested. The U.S. Bureau of Census juvenile population figures used by the OJJDP may not accurately reflect rapid changes in a State's juvenile population.

Response: The OJJDP will continue to use the U.S. Bureau of Census juvenile population figures, which are annually updated by the Bureau, to calculate each State's rate of compliance with the jail removal provision of the JJDP Act. This is necessary in order to ensure a uniform basis for making de minimis calculations.

However, when juvenile population figures available within the State demonstrate a rate below the allowable de minimis rate, while use of U.S. Bureau of Census figures indicate a rate above the allowable de minimis rate, the State may request the OJJDP to accept the State's figures. Such requests will be reviewed on a case by case basis, and must be submitted each year the State wishes to be exempted from the requirement to use U.S. Bureau of Census figures. The OJJDP may accept the State's juvenile population figures when they are the product of an established annual information collection system. The information collection system and its primary usage must be described in the State's annual request for a finding of full compliance with de minimis exceptions, and must be approved by the Administrator as valid and reliable.

III. Policy and Criteria for De Minimis Exceptions to Full Compliance with the Jail Removal Requirement

The criteria presented below and set forth in the final regulation will be applied by OJJDP in determining whether a State has achieved, and subsequently maintained, a numerical finding of full compliance with de minimis exceptions with the jail and lockup removal requirement of section 223(a)(14). Also specified is the time frame for submitting information which each State must provide when requesting an initial or subsequent finding of full compliance with a de minimis exceptions under 28 CFR 31.303(f)(6)(iii)(B).

Discussion of Criteria

The criteria for finding full compliance with de minimis exceptions is that the incidents of noncompliance are insignificant, or of slight consequence, in

terms of the total juvenile population in the State.

In applying this criteria, OJJDP will compare each State's noncompliance rate per 100,000 population under age 18 to the average rate that has been calculated for 12 States (three States from each of the four Bureau of Census regions). The 12 States selected by OJJDP were those having the lowest rates of noncompliance per 100,000 juvenile population and which had an adequate system of monitoring for compliance. Those States using the non-MSA exception, provided for in section 223(a)(14), were not included in calculating the average. Inclusion of these States would have created an artifically low average because the exception expires in 1989.

The information provided by the 12 States' 1986 Monitoring Reports indicated an average annual rate of nine (9) incidents of noncompliance per 100,000 juvenile population. Consequently, those States which have a noncompliance rate in excess of nine (9) per 100,000 juvenile population will be considered presumptively ineligible for a finding of full compliance with de minimis exceptions, pursuant to § 31.303(f)(6)(iii)(B) of the Formula Grants Regulation.

When a State can demonstrate, however, that recently enacted changes in State law which have gone into effect can reasonably be expected to have a substantial, significant and positive impact on the State's level of compliance, OJJDP will consider this exceptional circumstance in making its determination of full compliance with de minimis exceptions. This exceptional circumstance will only be applied where the legislation is expected to produce full (100%) compliance or full compliance with de minimis exceptions by the end of the monitoring period immediately following the monitoring period under consideration.

OJJDP deems it to be a requirement of critical importance that all States annually demonstrate continued and meaningful progress toward 100 percent compliance in order to remain eligible for a finding of full compliance with de minimis exceptions pursuant to § 31.303(f)(6)(iii)(B) of the Formula Grants Regulation.

Executive Order 12291

This regulation does not constitute a "major" rule as defined by Executive Order 12291 because it does not result in: (a) An effect on the economy of $100 million or more, (b) major increase in any costs or prices, or (c) adverse effects on competition, employment, investment, productivity, or innovation among American enterprises.

Regulatory Flexibility Act

This regulation does not have "significant" economic impact on a substantial number of small "entities," as defined by the Regulatory Flexibility Act (Pub. L. 96–354).

Paperwork Reduction Act

No new collection of information requirements are contained in this regulation (See the Paperwork Reduction Act, 44 U.S.C. 3504(h)).

List of Subjects in 28 CFR Part 31

Grant programs-law, Juvenile delinquency, Reporting and recordkeeping requirement.

Final Regulation

PART 31—[AMENDED]

1. The authority citation for Part 31 continues to read as follows:

Authority: Juvenile Justice and Delinquency Prevention Act of 1974, as amended (42 U.S.C. 5601 *et seq.*).

2. A new paragraph (f)(6)(iii)(B), currently designated as "Reserved" in 28 CFR 31.303, is added to read as follows:

§ 31.303 Substantive requirements.

(f) • • •
(6) • • •
(iii) • • •

(B)(*1*) *Standard.* The State must demonstrate that each of the following requirements have been met.

(*i*) The incidents of noncompliance reported in the State's last submitted monitoring report do not exceed an annual rate of 9 per 100,000 juvenile population of the State; and

(*ii*) An acceptable plan has been developed to eliminate the noncompliant incidents through the enactment or enforcement of State law, rule, or statewide executive or judicial policy, education, the provision of alternatives, or other effective means.

(*2*) *Exception.* When the annual rate for a State exceeds 9 incidents of noncompliance per 100,000 juvenile population, the State will be considered ineligible for a finding of full compliance with de minimis exceptions under the numerical de minimis standard unless the State has recently enacted changes in State law which have gone into effect and which the State demonstrates can reasonably be expected to have a substantial, significant and positive impact on the State's achieving full (100%) compliance or full compliance with de minimis exceptions by the end of the monitoring period immediately following the monitoring period under consideration.

(*3*) *Progress.* Beginning with the monitoring report due by December 31, 1990, any State whose prior full compliance status is based on having met the numerical de minimis standard set forth in paragraph (f)(6)(iii)(B)(*1*) (*i*) and (*ii*) of § 31.303, must annually demonstrate, in its request for a finding of full compliance with de minimis exceptions, continued and meaningful progress toward achieving full (100%) compliance in order to maintain eligibility for a continued finding of full compliance with de minimis exceptions.

(*4*) *Request Submission.* Determinations of full compliance and full compliance with de minimis exceptions are made annually by OJJDP following submission of the monitoring report due by December 31 of each calendar year. Any State reporting less than full (100%) compliance in any annual monitoring report may request a finding of full compliance with de minimis exceptions under paragraph (f)(6)(iii) (A) or (B) of § 31.303. The request may be submitted in conjunction with the monitoring report, as soon thereafter as all information required for a determination is available, or be included in the annual State plan and application for the State's Formula Grant Award.

Date: October 28, 1988.

Verne L. Speirs,

Administrator, Office of Juvenile Justice and Delinquency Prevention.

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federal register

Tuesday
August 8, 1989

Part VI

Department of Justice

Office of Juvenile Justice and Delinquency Prevention

28 CFR Part 31

Formula Grants; Notice of Final Regulation

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

28 CFR Part 31

Formula Grants

AGENCY: Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention.

ACTION: Notice of final regulation.

SUMMARY: The Office of Juvenile Justice and Delinquency Prevention (OJJDP) is publishing the final revision of the existing Formula Grants Regulation (28 CFR part 31), which implements part B of Title II of the Juvenile Justice and Delinquency Prevention (JJDP) Act of 1974, as amended by the Juvenile Justice and Delinquency Prevention Amendments of 1988, (subtitle F of title VII of the Anti-Drug Abuse Act of 1988, Pub. L. 100-690, 102 Stat. 4181, November 18, 1988). The 1988 Amendments reauthorize and modify the Federal assistance program of grants to state and local governments and private not-for-profit agencies for juvenile justice and delinquency prevention improvements authorized under part B of Title II of the JJDP Act (42 U.S.C. 5611 *et seq.*). The final revision to the existing Regulation provides guidance to states in the formulation, submission, and implementation of state formula grants plans.

EFFECTIVE DATE: This regulation is effective August 8, 1989.

FOR FURTHER INFORMATION CONTACT: Jeff Allison, Compliance Monitoring Coordinator, State Relations and Assistance Division, Office of Juvenile Justice and Delinquency Prevention (OJJDP), 633 Indiana Avenue, NW., Room 760, Washington, DC 20531; (202) 724-5924.

SUPPLEMENTARY INFORMATION:

Statutory Amendments

The 1988 reauthorization of the JJDP Act resulted in statutory amendments that impact the Formula Grants Program. These statutory changes include: A modified formula grant fund allocation minimum for participating states and territories; a funding pass-through requirement for Indian tribes; a plan requirement related to assessing and addressing the overrepresentation of minority juveniles in all types of secure facilities; extension through 1993 of the non-MSA exception to the jail and lockup removal requirement; an alternative substantial compliance standard for jail and lockup removal; and, a provision for the Administrator to waive termination of funding eligibility for states that have failed to achieve substantial or full compliance with the jail and lockup removal requirement. The final regulation details revised procedures and requirements for states participating in the Formula Grants Program resulting from the 1988 amendments to the JJDP Act.

Description of Major Changes

Formula Grant Allocations

Section 222(a) of the JJDP Act was amended to raise the minimum Formula Grant allocation from $225,000 per state and $56,250 per territory. The minimum allocations are now $325,000 per state and $75,000 per territory if the title II appropriation is less than $75 million (other than part D). If the title II appropriation is more than $75 million (other than part D), the minimum allocations are $400,000 per state and $100,000 per territory. State and territory allocations will be reduced pro rata to the extent necessary to ensure that no state receives less than it was allotted in Fiscal Year 1988.

Indian Pass-Through

Section 223(a)(5) of the JJDP Act was amended to require that a portion of each participating state's 66⅔ percent Formula Grant pass-through be made available to fund programs of Indian tribes that perform law enforcement functions, and that agree to attempt to comply with the deinstitutionalization of status offenders, separation, and jail and lockup removal requirements of the JJDP Act. The proportion of pass-through funds made available for these programs must be the same as the proportion of the state's population under 18 years of age which resides in those geographical areas where Indian tribes perform such law enforcement functions. Each year, the Secretary of the Interior will provide OJJDP with an updated list of those tribes within states that perform law enforcement functions. The initial list is available through OJJDP.

A related provision, section 223(a)(8)(A) of the JJDP Act, was amended to require that each state's juvenile crime analysis, which is submitted annually as part of the Formula Grant Application and Plan, include an assessment of juvenile crime problems and prevention needs within the geographical areas in which Indian tribes perform law enforcement functions.

Minority Overrepresentation in Secure Facilities

Section 223(a)(23) of the JJDP Act was amended to require that each participating state's Formula Grant Plan address efforts to reduce the proportion of juveniles who are members of minority groups detained or confined in secure detention facilities, secure correctional facilities, jails, and lockups, if such proportion exceeds the proportion such groups represent in the general population.

Jail Removal

Section 223(a)(14) of the JJDP Act was amended to continue the non-MSA (low population density) exception to the jail and lockup removal requirement through 1993. The statutory criteria outlined in section 223(a)(14) (A), (B) and (C) that must be satisfied for a state to use this exception remain the same (28 CFR 31.303(f)(4)).

Section 223(c) of the JJDP Act was amended to create an alternative substantial compliance standard for those states unable to achieve a 75 percent reduction in jail and lockup removal violations, but which have made sufficient progress to merit continued funding. The new standard establishes four criteria which, if satisfied, may be used in lieu of achieving a 75 percent numerical reduction to demonstrate substantial compliance. The four criteria require that the state has: (1) Removed all status and nonoffender juveniles from adult jails and lockups; (2) made meaningful progress in removing other juveniles from adult jails and lockups; (3) diligently carried out the state's jail and lockup removal plan; and (4) historically expended and continues to expend an appropriate and significant share of Formula Grant resources to comply with section 223(a)(14) of the JJDP Act. As with the 75 percent reduction standard, for a state to be eligible for a finding of substantial compliance under this alternative standard the state must demonstrate an unequivocal commitment to achieving full compliance within a reasonable time, not to exceed three additional years, after the December 8, 1985, statutory deadline for achieving substantial compliance with the jail and lockup removal requirement.

The statutory deadlines for substantial and full compliance with section 223(a)(14) of the JJDP Act were not changed by the 1988 Amendments. Each participating state and territory's 1987 and 1988 Monitoring Reports (due by December 31, 1987, and December 31, 1988, respectively) must demonstrate either substantial or full compliance with the jail and lockup removal requirement in order for the state to be eligible (absent a waiver of termination)

for the FY 1989 and 1990 Formula Grant awards, respectively. Each participating state and territory's 1989 Monitoring Report (due by December 31, 1989), must demonstrate full compliance or full compliance with de minimis exceptions with section 223(a)(14) in order for the state to be eligible (absent a waiver of termination) for the FY 1991 Formula Grant award, and all subsequent awards.

Section 223(c) of the JJDP Act was also amended to provide the Administrator of OJJDP with the discretion to waive termination of funding eligibility for those states and territories that have not achieved substantial or full compliance with the jail and lockup removal requirement, provided that the state or territory agrees to expend all of its Formula Grant resources, except planning and administration, advisory group set aside, and Indian tribe pass-through funds, to achieve compliance with section 223(a)(14). This final revision of the Formula Grants Regulation sets forth standards that a state must demonstrate it meets in order to be considered by the Administrator for a waiver of the termination sanction. A state which satisfies these standards qualifies for a waiver on the basis that: (1) It has made significant progress to date; and (2) additional funding is likely to produce further progress toward compliance.

Discussion of Comments

The proposed revisions to the existing Formula Grants Regulation were published in the Federal Register on April 12, 1989 (54 FR 14768), for public comment. Written comments were received from eight states, two regional coalitions of state juvenile justice advisory groups, the National Coalition of State Juvenile Justice Advisory Groups, the University of Wisconsin School of Social Welfare, and the Subcommittee on Human Resources of the U.S. House of Representatives' Committee on Education and Labor. The National Coalition of State Juvenile Justice Advisory Groups submitted a resolution passed at their May 7-10, 1989 National Conference in Reno. All comments have been considered by OJJDP in the issuance of this final regulation.

The following is a summary of the comments and the responses by OJJDP:

1. *Comment:* The majority of respondents expressed concern that paragraphs (f)(6)(iii)(D)(1)(v) and (f)(6)(iii)(D)(2) (vii) of the proposed regulation only required states to demonstrate a "commitment" to achieving full compliance when seeking a waiver of termination of eligibility for failure to achieve substantial or full compliance with the jail and lockup removal provision, section 223(a)(14) of the JJDP Act. These respondents indicated that states should be required to demonstrate an "unequivocal commitment" to achieving full compliance in order to be eligible for a waiver of termination. The House Subcommittee on Human Resources commented that requiring a lesser commitment for a state in the context of an application for a waiver than is required for that state to achieve substantial compliance weakens the Act's compliance scheme, which was not the intent of the 1988 Amendments. The House Subcommittee further commented that only a requirement of unequivocal commitment will enable the Administrator to make the determination, with certainty, that additional funding is likely to produce further progress toward compliance when waivers are granted. The comments and the resolution of the National Coalition of State Juvenile Justice Advisory Groups supported this position.

Several respondents commented that the positive responses of state legislatures and governors to the requirement of an unequivocal commitment as a basis of eligibility for participation in the OJJDP sponsored Jail Removal Initiative I demonstrates the level of commitment that most states have already made to achieving the goals of jail removal. Within this context, respondents commented that OJJDP should remain consistent in its interpretation of requirements, as weakening the standard undermines gains already achieved by many states.

Finally, several respondents indicated that without requiring the higher, well defined standard of "unequivocal commitment," waivers of termination would practically be automatic, and the jail and lockup removal provision of the JJDP Act would be weakened.

One state supported the "commitment" language in the proposed regulation.

Response: It is the OJJDP position that the legislation itself is clear in that it does not require the Administrator to demand an "unequivocal commitment" but allows the Administrator discretion to waive termination of eligibility when a state is unable to meet the standard for substantial compliance, or the standard for full compliance. The Act imposes only one condition upon the Administrator in utilizing the waiver provision: That those states who are unable to demonstrate substantial or full compliance (as required by the Act) must commit all of their formula grant dollars to the issue of jail removal except as provided by the statute. This is a substantial requirement and is demonstrative of a state's willingness and commitment to comply with the jail removal mandate.

The Regulation incorporates this requirement and in addition requires states to: Have an adequate monitoring system, diligently carry out the state's jail and lockup removal plan, submit an acceptable plan to eliminate noncompliant incidents and to demonstrate a commitment to achieving full compliance. Therefore, the Regulation satisfies not only the clear language of the statute, it also satisfies the intent of Congress that the waiver be applied to those cases where the Administrator determines the states have made significant progress and additional funding is likely to produce further progress toward compliance. It is consistent with Congressional action in creating the waiver provision by assisting states that are committed to maintaining progress toward and achieving full compliance with 223(a)(14).

Based on these conclusions, paragraphs (f)(6)(iii)(D)(1)(v) and (f)(6)(iii)(D)(2)(vii) of the final regulation retain the original language from the proposed regulation requiring states seeking a waiver of termination of eligibility to demonstrate a "commitment" to achieving full compliance.

2. *Comment:* One respondent indicated that there was no justification for allowing the Administrator to waive termination of a state's eligibility for failure to achieve substantial compliance with the jail and lockup removal provision.

Response: Section 223(c)(2)(B) of the JJDP Act clearly applies the waiver of termination sanction to those states unable to achieve substantial compliance with the jail and lockup removal provision, pursuant to section 223(c)(2)(A). This interpretation of the statute is supported by the House Committee on Education and Labor Report (100-605) which states on page 11, "It should be noted that the bill makes this alternative sanction available with regard to enforcing the substantial and full compliance requirements."

It is the OJJDP's intention to apply the waiver provision carefully, as directed by Congress. This will occur in those situations where, although substantial compliance has not been achieved within the applicable time limit, the state has made significant progress in removing juveniles from adult jails and

lockups, and there is substantive evidence that additional funding is likely to produce further progress toward full compliance.

3. *Comment:* One respondent requested that the waiver maximum apply only to (f)(6)(iii)(D)(2), which relates to full compliance and not to (f)(6)(iii)(D)(1), which relates to substantial compliance. Thus the maximum number of waivers would only be counted for failure to achieve full compliance. Waivers applied to states for failure to achieve substantial compliance would not be counted toward the three waiver maximum.

Response: Although the standard for substantial compliance is different from the standard for full compliance no other distinction is made in the application of the three year waiver limitation. No state, regardless of whether the substantial compliance standard is used or the full compliance standard is used, is eligible for more than three waivers.

4. *Comment:* One respondent recommended that paragraph (j)(1), which requires that documentation be provided in the State Plan Juvenile Crime Analysis to indicate whether minority juveniles are disproportionately detained or confined, provide more specific information as to what kind of documentation is required.

Response: OJJDP agrees with this recommendation and will prepare supplemental information, including recommended data collection and analysis strategies. For those states whose Fiscal Year 1989 plan has already been submitted, separate instructions for supplementing the FY 1989 plan update to meet any new or modified requirements imposed by the final regulation will also be issued.

5. *Comment:* One respondent expressed concern about how the implementation of the workplan for addressing overrepresentation of minorities in the juvenile justice system will be monitored to ensure that the plan is being carried out.

Response: OJJDP intends to monitor implementation of workplans through site visits and through reviewing Performance Reports. In addition, OJJDP plans to develop an addendum to the Monitoring Compliance Report which is currently submitted annually to determine compliance with section 223(a)(12)(A), (13), and (14). This addendum will apply to the 1990 Monitoring Report due December 31, 1990, and all subsequent monitoring reports.

6. *Comment:* One respondent expressed concern about the interpretation of the statutory language in section 223(a)(23) of the Act that requires states to address the over-representation of minority youth in secure detention facilities. The basis for this concern is that the language "if such proportion exceeds the proportion such groups represent in the general population," if interpreted literally, might lead to a situation in which the proportion of minority youth in secure detention would be compared to the proportion of minority members in the general population. Such a comparison would be misleading because of the skewed age distributions of minority populations in the United States at the present. Minority populations tend to be composed of greater percentages of younger individuals. Thus, while in a given jurisdiction 25 percent of the overall population may be members of a minority group, 30 percent or more of the population could be under 20 years of age. If this were the case, and assuming equal risks of offense, apprehension and other decision making, it would still be the case that this hypothetical jurisdiction would appear to have an over-representation of minority youth.

The respondent recommends that for purposes of determining over-representation of minority youth in secure facilities, the general population be defined as youth at risk for such confinement.

Response: OJJDP also recognized the potential for misinterpretation of the statutory language. As a consequence, this language was clarified in § 31.303 (j)(1) of the proposed OJJDP Formula Grants Regulation. This clarification has been retained in the final Regulation.

7. *Comment:* The Subcommittee on Human Resources of the House Committee on Education and Labor commented on the definition of Indian tribes that perform law enforcement functions. Concern was expressed that the definition does not fully track the definition of "law enforcement and criminal justice" in section 103(6) of the Act. While the proposed definition specifically includes police efforts, it omits any specific reference to activities of courts, corrections, probation, or parole authorities. Concern was expressed that OJJDP not interpret the term "law enforcement functions" too narrowly and a suggestion made that this definition be expanded to more closely track the section 103(6) language. Two state respondents expressed similar concerns.

Response: In response to this comment, as well as to those from the two state respondents, the language for the definition of law enforcement functions has been expanded to include corrections, probation, and parole activities.

8. *Comment:* One state, which has only one Indian tribe that might be able to qualify for pass-through funds, expects that the population under 18 years is too small to warrant an individual grant. A question was raised about how OJJDP defines the term "larger tribal jurisdiction" as it relates to that situation?

Response: OJJDP recognizes the range of populations of Indian Tribes and Alaskan Native villages, and the Regulation is designed to give the State Agency flexibility in targeting funds where substantial impact can be anticipated through the funding of tribes attempting to achieve compliance with section 223(a) (12)(A), (13) and (14) of the JJDP Act. It also recognizes the variation in resources among Indian tribes to develop and manage projects, and, accordingly, provides for making pass-through funds available to organizations designated by tribes to represent them, or to combinations of eligible tribes. Where a state has only one tribe, that tribe, regardless of size would be the eligible tribe and would necessarily be the recipient or beneficiary of the Indian tribe pass-through, if it met the requirements of performing law enforcement functions and agreeing to attempt to achieve compliance with the statutory mandates.

An excerpt from The U.S. Census 1980 Report on the General Characteristics for American Indian Persons on Reservations, which provides data on juvenile populations under 18 residing on Indian Reservations by state and by Indian tribe is available through OJJDP. Data on Alaskan Native Organizations is also included. In addition, the 1980 Bureau of Census data for juvenile populations under 18 by state (the figure for each state is total juvenile population under 18, and includes Indian juvenile population under 18), is available through OJJDP. Given the fact that the 1980 Census data on Indian tribe population is the most recent data available at this time, states are expected to use the comparable 1980 census data for the general youth population under 18 to compute the proportion of the pass-through for Indian tribes performing law enforcement functions. The Indian population will need to be subtracted from the total juvenile population under 18 for each state. The 1980 data will be used until the 1990 Census Report is issued and provides more current data on Indian tribe youth populations. In the event that there are Indian tribes performing law enforcement functions that do not

appear on the Bureau of Census listing, the cognizant OJJDP State Representative should be contacted for assistance in securing other population data.

9. *Comment:* In the proposed regulations, numerous references are made to Indian tribes that perform law enforcement functions. There are Alaska Natives that are recognized by the Department of the Interior as having law enforcement functions, and it is important that references and definitions include these populations.

Response: In drafting this section OJJDP used the language of the Amendments. There is no intent to exclude any tribal unit, determined by the Secretary of the Department of the Interior as performing law enforcement functions. Moreover, section 103(18) of the 1988 Amendments defines "Indian tribe" as: (A) A Federally recognized Indian tribe or (B) An Alaskan Native organization. The Department of the Interior provided the OJJDP with a listing that will be used to determine Indian tribe eligibility to receive Formula Grant funds from the State agencies. Alaskan Native organizations are included in the list. The listing is entitled, "Indian Entities Recognized and Eligible to Receive Services From the United States Bureau of Indian Affairs," published by the Bureau of Indian Affairs, U.S. Department of the Interior, December 29, 1988. This is the list of tribes eligible to receive BIA services and presumed to perform law enforcement functions, pursuant to the definition provided in paragraph § 31.301(b)(2) of this regulation. While this list is more encompassing than Indian tribes performing law enforcement functions, this is the only list available from the Department of the Interior at this time. Thus, it will be used by State Planning Agencies until revised or updated by the Department of the Interior, for purposes of determining Indian tribes eligibility for the pass-through;

10. *Comment:* One comment reflected concern about the difficulty in defining tribes that perform law enforcement functions.

Response: Section 103(6) of the Act provides the definition of law enforcement and criminal justice for the purposes of OJJDP programs. This definition includes those activities that impact on section 223(a)(12)(A), (13) and (14). Section 223(a)(5) designates the Secretary of the Department of the Interior as the authority for determining which tribes perform law enforcement functions using this definition.

Executive Order 12291

This notice does not constitute a "major" rule as defined by Executive Order 12291 because it does not result in: (a) An effect on the economy of $100 million or more, (b) a major increase in any costs or prices, or (c) adverse effects on competition, employment, investment, productivity, or innovation among American enterprises.

Regulatory Flexibility Act

This final regulation, does not have a "significant" economic impact on a substantial number of small "entities", as defined by the Regulatory Flexibility Act (Pub. L. 96-354).

Paperwork Reduction Act

No collection of information requirements are contained in or effected by this regulation (See the Paperwork Reduction Act, 44 U.S.C. 3504(h)).

Intergovernmental Review of Federal Programs

In accordance with Executive Order 12372 and the Department of Justice's implementing regulation 28 CFR part 31, states must submit formula grant applications to the State "Single Point of Contact," if one exists. The State may take up to 60 days from the application date to comment on the application.

List of Subjects in 28 CFR Part 31

Grant programs—law, Juvenile delinquency, Grant programs.

For the reasons set out in the preamble, the OJJDP Formula Grants Regulation, 28 CFR part 31, is amended as follows:

PART 31—[AMENDED]

1. The authority citation for part 31 continues to read as follows:

Authority: Juvenile Justice and Delinquency Prevention Act of 1974, as amended (42 U.S.C. 5601 et seq.).

2. Paragraphs (a) and (b) of § 31.301, are revised to read as follows:

§ 31.301 Funding.

* * * * *

(a) *Allocation to States.* Each state receives a base allocation of $325,000, and each territory receives a base allocation of $75,000 when the title II appropriation is less than $75 million (other than part D). When the title II appropriation equals or exceeds $75 million (other than part D), each state receives a base allocation of $400,000, and each territory receives a base allocation of $100,000. To the extent necessary, each state and territory's base allocation will be reduced proportionately to ensure that no state receives less than it was allocated in Fiscal Year 1988.

(b) *Funds for Local Use.* At least two-thirds of the formula grant allocation to the state (other than the section 222(d) State Advisory Group set aside) must be used for programs by local government, local private agencies, and eligible Indian Tribes, unless the State applies for and is granted a waiver by the OJJDP. The proportion of pass-through funds to be made available to eligible Indian tribes shall be based upon that proportion of the state youth population under 18 years of age who reside in geographical areas where tribes perform law enforcement functions. Pursuant to section 223(a)(5)(C) of the JJDP Act, each of the standards set forth in paragraphs (b)(1) (i) through (iii) of this section must be met in order to establish the eligibility of Indian tribes to receive pass through funds:

(1)(i) The tribal entity must be recognized by the Secretary of the Interior as an Indian tribe that performs law enforcement functions as defined in paragraph (b)(2) of this section.

(ii) The tribal entity must agree to attempt to comply with the requirements of section 223(a)(12)(A), (13), and (14) of the JJDP Act; and

(iii) The tribal entity must identify the juvenile justice needs to be served by these funds within the geographical area where the tribe performs law enforcement functions.

(2) "Law enforcement functions" are deemed to include those activities pertaining to the custody of children, including, but not limited to, police efforts to prevent, control, or reduce crime and delinquency or to apprehend criminal and delinquent offenders, and/or activities of adult and juvenile corrections, probation, or parole authorities.

(3) To carry out this requirement, OJJDP will annually provide each state with the most recent Bureau of Census statistics on the number of persons under age 18 living within the state, and the number of persons under age 18 who reside in geographical areas where Indian tribes perform law enforcement functions.

(4) Pass-through funds available to tribal entities under section 223(a)(5)(C) shall be made available within states to Indian tribes, combinations of Indian tribes, or to an organization or organizations designated by such tribe(s), that meet the standards set forth in paragraphs (b)(1) (i)–(iii) of this section. Where the relative number of persons under age 18 within a geographic area where an Indian tribe

performs law enforcement functions is too small to warrant an individual subgrant or subgrants, the state may, after consultation with the eligible tribe(s), make pass-through funds available to a combination of eligible tribes within the state, or to an organization or organizations designated by and representing a group of qualifying tribes, or target the funds on the larger tribal jurisdictions within the state.

(5) Consistent with section 223(a)(4) of the JJDP Act, the state must provide for consultation with Indian tribes or a combination of eligible tribes within the state, or an organization or organizations designated by qualifying tribes, in the development of a state plan which adequately takes into account the juvenile justice needs and requests of those Indian tribes within the state.

•

3. Section 31.303 is amended by adding paragraphs (f)(4)(vi) and (k); and by revising paragraph (f)(6)(iii), introductory text of (g) and paragraph (j) to read as follows:

§ 31.303 Substantive requirements.

• • • • •

(f) • • •

(4) • • •

(vi) Pursuant to section 223(a)(14) of the JJDP Act, the nonMSA (low population density) exception to the jail and lockup removal requirement described in paragraphs (f)(4) (i) through (v) of this section shall remain in effect through 1993.

• • • • •

(6) • • •

(iii)(A) Substantial compliance with section 223(a)(14) requires:

(*1*) The achievement of a 75% reduction in the number of juveniles held in adult jails and lockups after December 8, 1985; or

(*2*) That a state demonstrate it has met each of the standards set forth in paragraphs (f)(6)(iii)(A)(*2*) (*i*)–(*iv*) of this section:

(*i*) Removed all status and nonoffender juveniles from adult jails and lockups. Compliance with this standard requires that the last submitted monitoring report demonstrate that no status offender (including those accused of or adjudicated for violating a valid court order) or nonoffender juveniles were securely detained in adult jails or lockups for any length of time; or, that all status offenders and nonoffenders securely detained in adult jails and lockups for any length of time were held in violation of an enforceable state law and did not constitute a pattern or practice within the state;

(*ii*) Made meaningful progress in removing other juveniles from adult jails and lockups. Compliance with this standard requires the state to document a significant reduction in the number of jurisdictions securely detaining juvenile criminal-type offenders in violation of section 223(a)(14) of the JJDP Act; or, a significant reduction in the number of facilities securely detaining such juveniles; or, a significant reduction in the number of juvenile criminal-type offenders securely detained in violation of section 223(a)(14) of the JJDP Act; or, a significant reduction in the average length of time each juvenile criminal-type offender is securely detained in an adult jail or lockup; or, that state legislation has recently been enacted and taken effect and which the state demonstrates will significantly impact the secure detention of juvenile criminal-type offenders in adult jails and lockups;

(*iii*) Diligently carried out the state's jail and lockup removal plan approved by OJJDP. Compliance with this standard requires that actions have been undertaken to achieve the state's jail and lockup removal goals and objectives within approved timelines, and that the State Advisory Group, required by section 223(a)(3) of the JJDP Act, has maintained an appropriate involvement in developing and/or implementing the state's plan;

(*iv*) Historically expended and continues to expend an appropriate and significant share of its Formula Grant funds to comply with Section 223(a)(14). Compliance with this standard requires that, based on an average from two (2) Formula Grant Awards, a minimum of 40 percent of the program funds was expended to support jail and lockup removal programs; or that the state provides a justification which supports the conclusion that a lesser amount constituted an appropriate and significant share because the state's existent jail and lockup removal barriers did not require a larger expenditure of Formula Grant Program funds; and

(*3*) The state has made an unequivocal commitment, through appropriate executive or legislative action, to achieving full compliance within a reasonable time but in no event may such time extend beyond December 8, 1988.

(B) Full compliance is achieved when a state demonstrates that the last submitted monitoring report, covering 12 months of actual data, demonstrates that no juveniles were held in adult jails or lockups in circumstances that were in violation of section 223(a)(14).

(C) Full compliance with de minimis exceptions is achieved when a state demonstrates that it has met the standard set forth in either of paragraphs (f)(6)(iii)(C) (*1*) or (*2*) of this section:

(*1*) *Substantive De Minimis Standard.* To comply with this standard the state must demonstrate that each of the following requirements have been met:

(*i*) State law, court rule, or other statewide executive or judicial policy clearly prohibits the detention or confinement of all juveniles in circumstances that would be in violation of section 223(a)(14);

(*ii*) All instances of noncompliance reported in the last submitted monitoring report were in violation of or departures from, the state law, rule, or policy referred to in paragraph (f)(6)(iii)(C)(*1*)(*i*) of this section;

(*iii*) The instances of noncompliance do not indicate a pattern or practice but rather constitute isolated instances;

(*iv*) Existing mechanisms for the enforcement of the state law, rule or policy referred to in paragraph (f)(6)(iii)(C)(*1*)(*i*) of this section are such that the instances of noncompliance are unlikely to recur in the future; and

(*v*) An acceptable plan has been developed to eliminate the noncompliant incidents and to monitor the existing mechanism referred to in paragraph (f)(6)(iii)(C)(*1*)(*iv*) of this section.

(*2*) *Numerical De Minimis Standard.* To comply with this standard the state must demonstrate that each of the following requirements under paragraphs (f)(6) (iii)(C)(*2*) (*i*) and (*ii*) of this section have been met:

(*i*) The incidents of noncompliance reported in the state's last submitted monitoring report do not exceed an annual rate of 9 per 100,000 juvenile population of the state;

(*ii*) An acceptable plan has been developed to eliminate the noncompliant incidents through the enactment or enforcement of state law, rule, or statewide executive or judicial policy, education, the provision of alternatives, or other effective means.

(*iii*) Exception. When the annual rate for a state exceeds 9 incidents of noncompliance per 100,000 juvenile population, the state will be considered ineligible for a finding of full compliance with de minimis exceptions under the numerical de minimis standard unless the state has recently enacted changes in state law which have gone into effect and which the state demonstrates can reasonably be expected to have a substantial, significant and positive impact on the state's achieving full (100%) compliance or full compliance with de minimis exceptions by the end

of the monitoring period immediately following the monitoring period under consideration.

(*iv*) Progress. Beginning with the monitoring report due by December 31, 1990, any state whose prior full compliance status is based on having met the numerical de minimis standard set forth in paragraph (f)(6)(iii)(C)(*2*)(*i*) of § 31.303, must annually demonstrate, in its request for a finding of full compliance with de minimis exceptions, continued and meaningful progress toward achieving full (100%) compliance in order to maintain eligibility for a continued finding of full compliance with de minimis exceptions.

(*v*) Request Submission. Determinations of full compliance and full compliance with de minimis exceptions are made annually by OJJDP following submission of the monitoring report due by December 31 of each calendar year. Any state reporting less than full (100%) compliance in any annual monitoring report may request a finding of full compliance with de minimis exceptions under paragraph (f)(6)(iii)(C) (*1*) or (*2*) of this section. The request may be submitted in conjunction with the monitoring report, as soon thereafter as all information required for a determination is available, or be included in the annual state plan and application for the state's Formula Grant Award.

(D) *Waiver.* (*1*) Failure to achieve substantial compliance as defined in this section shall terminate any state's eligibility for Formula Grant funds unless the Administrator of OJJDP waives termination of the state's eligibility. In order to be eligible for a waiver of termination, a state must submit a waiver request which demonstrates that it meets the standards set forth in paragraph (f)(6)(iii)(D)(*1*) (*i*)–(*v*) of this section:

(*i*) Agrees to expend all of its Formula Grant Award except planning and administration, advisory group set aside, and Indian-tribe pass-through funds, to achieve compliance with section 223(a)(14); and

(*ii*) Diligently carried out the state's jail and lockup removal plan as set forth in paragraph (f)(6)(iii)(A)(*2*)(*iii*) of this section; and

(*iii*) Submitted an acceptable plan, based on an assessment of current jail and lockup removal barriers within the state, to eliminate noncompliant incidents; and

(*iv*) Achieved compliance with section 223(a)(15) of the JJDP Act; and

(*v*) Demonstrates a commitment, through appropriate executive or legislative action, to achieving full compliance.

(*2*) Failure to achieve full compliance as defined in this section shall terminate any state's eligibility for Formula Grant funds unless the Administrator of OJJDP waives termination of the state's eligibility. In order to be eligible for this waiver of termination, a state must request a waiver and demonstrate that it meets the standards set forth in paragraphs (f)(6)(iii)(D)(*2*) (*i*)–(*vii*) of this section:

(*i*) Agrees to expend all of its Formula Grant Award except planning and administration, advisory group set aside, and Indian tribe pass-through funds, to achieve compliance with section 223(a)(14); and

(*ii*) Removed all status and nonoffender juveniles from adult jails and lockups as set forth in paragraph (f)(6)(iii)(A)(*2*)(*i*) of this section; and

(*iii*) Made meaningful progress in removing other juveniles from adult jails and lockups as set forth in paragraphs (f)(6)(iii)(A)(*2*)(*ii*) of this section; and

(*iv*) Diligently carried out the state's jail and lockup removal plan as set forth in paragraph (f)(6)(iii)(A)(*2*)(*iii*) of this section; and

(*v*) Submitted an acceptable plan, based on an assessment of current jail and lockup removal barriers within the state, to eliminate noncompliant incidents; and

(*vi*) Achieved compliance with section 223(a)(15) of the JJDP Act; and

(*vii*) Demonstrates a commitment, through appropriate executive or legislative action, to achieving full compliance.

(E) Waiver Maximum. A state may receive a waiver of termination of eligibility from the Administrator under paragraph (f)(6)(iii)(D) (*1*) and (*2*) of this section for a combined maximum of three Formula Grant Awards. No additional waivers will be granted.

* *

(g) Juvenile Crime Analysis. Pursuant to section 223(a)(8) (A) and (B), the state must conduct an analysis of juvenile crime problems, including juvenile gangs that commit crimes, and juvenile justice and delinquency prevention needs within the state, including those geographical areas in which an Indian tribe performs law enforcement functions.

* *

(j) Minority Detention and Confinement. Pursuant to section 223(a)(23) of the JJDP Act, states must address efforts to reduce the proportion of juveniles detained or confined in secure detention facilities, secure correctional facilities, jails and lockups who are members of minority groups if such proportion exceeds the proportion such groups represent in the general population, viz., youth at risk for secure confinement. It is important for states to approach this in a comprehensive manner. Compliance with this provision is achieved when a state has met the requirements set forth in paragraphs (j)(1)–(3) of this section:

(1) Provide documentation in the State Plan Juvenile Crime Analysis to indicate whether minority juveniles are disproportionately detained or confined in secure detention or correctional facilities, jails, or lockups in relation to their proportion of the at risk youth population;

(2) Where documentation is unavailable, or demonstrates that minorities are disproportionately detained or confined in relation to their proportion in the at risk youth population, states must provide a strategy for addressing the disproportionate representation of minority juveniles in the juvenile justice system, including but not limited to:

(i) Assessing the differences in arrest, diversion, and adjudication rates, court dispositions other than incarceration, and the rates and periods of commitment to secure facilities of minority youth and non-minority youth in the juvenile justice system;

(ii) Increasing the availability and improving the quality of diversion programs for minorities who come in contact with the juvenile justice system such as police diversion programs;

(iii) Providing support for prevention programs in communities with a high percentage of minority residents with emphasis upon support for community-based organizations that serve minority youth;

(iv) Providing support for reintegration programs designed to facilitate reintegration and reduce recidivism of minority youths;

(v) Initiate or improve the usefulness of relevant information systems and disseminate information regarding minorities in the juvenile justice system.

(3) Each state is required to submit a supplement to the 1988 Multi-Year Plan for addressing the extent of disproportionate representation of minorities in the juvenile justice system. This supplement, which will be submitted as a component of the 1989 Formula Grant Application and Multi-Year Plan Update, must include the state's assessment of disproportionate minority representation, and a workplan for addressing this issue programmatically. Where data is insufficient to make a complete assessment, the workplan must include provisions for improving the information

collection systems. The workplan, once approved by OJJDP, is to be implemented as a component of the state's 1990 Formula Grant Plan.

(4) For purposes of this plan requirement, minority populations are defined as members of the following groups: Asian Pacific Islanders; Blacks; Hispanics; and, American Indians.

(k) Pursuant to section 223(a)(24) of the JJDP Act, states shall agree to other terms and conditions as the Administrator may reasonably prescribe to assure the effectiveness of programs assisted under the Formula Grant.

Terrence S. Donahue,

Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.

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PART 4

THE MONITORING PLAN

Alaska's System for Monitoring Compliance With the Juvenile Justice and Delinquency Prevention Act

ALASKA'S SYSTEM FOR MONITORING COMPLIANCE WITH THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT

STATE OF ALASKA

Department of Health and Social Services

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JC 8906

December, 1988

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Pursuant to Section 223(a)(15) of the Juvenile Justice and Delinquency Prevention Act of 1974 and as mandated by 28 CFR Part 31.303(f), the state is required to "[d]escribe its plan, procedure and timetable for annually monitoring jails, lockups, detention facilities, correctional facilities and non-secure facilities. The plan must at a minimum describe in detail each [monitoring task] including the identification of the specific agency(s) responsible for each task" [28 CFR Part 31.303(f)(1)(i)]. The state must also "[p]rovide a description of the barriers which [it] faces in implementing and maintaining a monitoring system to report the level of compliance with section 223(a)(12), (13) and (14) and how it plans to overcome such barriers" [28 CFR Part 31.303(f)(1)(ii)]. Finally, the state is also required to "[d]escribe procedures established for receiving, investigating, and reporting complaints of violation of section 223(a)(12), (13) and (14). This should include both legislative and administrative procedures and sanctions" [28 CFR Part 31.303(f)(1)(iii)].

The Division of Family and Youth Services (DFYS) is the agency responsible for performing compliance monitoring in Alaska. To improve its system of monitoring compliance with the JJDP Act, DFYS planned to use JJDP Formula Grant Funds to support a contract specifically for the purpose of designing a more comprehensive compliance monitoring system. A contract was awarded to the Justice Center at the University of Alaska Anchorage for design of the new system and for performing all monitoring tasks and preparing monitoring reports for CY 1987 and 1988 in accord with the monitoring system. The Justice Center will also prepare a monitoring system manual which will provide detailed procedures for annual identification and classification of the monitoring universe, inspection of facilities, collection, verification and analysis of data, and preparation of monitoring reports. This manual will be designed for use both as a training guide and as a reference source for future monitoring efforts.

A plan for annual monitoring, including procedures for completing each of the monitoring tasks specified in 28 CFR Part 31.303(f)(1)(i), has been developed by the Justice Center in cooperation with DFYS. This plan is outlined below, in Section I. Barriers to implementation of the monitoring system are discussed in Section II, and procedures for receiving, investigating and reporting complaints of violation are addressed in Section III. Timetables for completion of monitoring tasks may be found in the Appendix.

I. The Monitoring Plan

A. Identification of Monitoring Universe

A list of 103 facilities has been compiled by DFYS in cooperation with the Department of Public Safety (DPS) and other organizations. This list includes 17 state-contracted rural jails, 78 municipal and locally operated rural holding facili-

ties, 3 Department of Corrections (DOC) facilities and 5 juvenile detention/correctional facilities operated by DFYS. This list will form the monitoring universe which will be employed by the Justice Center in completing monitoring tasks necessary for 1987 and 1988 monitoring reports.

A systematic effort to develop a more comprehensive list of all facilities which might hold juveniles will be undertaken by the Justice Center in November and December, 1988. This second list will form the monitoring universe for 1989. Facilities to be included in the 1989 monitoring universe will be identified by the Justice Center in the following manner:

(1) Commanders of all Alaska State Trooper (AST) detachments statewide will be surveyed by telephone to determine the location of all municipal jails and lockups in each region. A list of all cities, towns and villages serviced by a detachment will be read to the detachment commander or his/her designee and the respondent will be requested to indicate the presence or absence of a jail or lockup (definitions of these terms will be provided), or any other resource for secure confinement of either adults or juveniles for each community with which he or she is familiar. Where the commander or designee is unable to indicate the presence or absence of a jail or lockup in each community named, the respondent will be asked to provide the name of a person within the detachment who may be able to provide the requested information and the individual named will then be contacted and requested to provide the information. This process will be repeated until the presence or absence of a jail or lockup is indicated for each community under that Detachment's jurisdiction. This method of identifying rural facilities is deemed preferable to a survey of community officials themselves because the risk of non-response is believed to be considerably greater in the latter type of survey.

(2) Justice Center staff will obtain a list or lists of all detention centers, juvenile correctional facilities, halfway houses, group homes, foster homes, and any other secure or non-secure public or private facilities which may be used for residential placement of either adults or juveniles (including mental health facilities, hospitals, chemical dependency programs, and detoxification centers).

(3) A comprehensive list of adult correctional facilities will be obtained from the Department of Corrections.

(4) A comprehensive list of state-contracted jails will be obtained from the Department of Public Safety.

(5) Area Court Administrators in each judicial district will be asked to provide a comprehensive list of court holding facilities in their districts. Each Area Court Administrator will also be asked to indicate which, if any, of the facilities are equipped for overnight detention and which, if any, provide for separation of juvenile incarcerated adult detainees.

The monitoring universe will be updated annually according to the procedure outlined above, except where more efficient procedures can be implemented for identification of new facilities and facilities which have been taken out of service each year (e.g., in years subsequent to 1988, the annual survey of AST detachment commanders will be designed to elicit information about new facilities and facilities which have been shut down during the previous year; questions about the presence or absence of a secure facility in each community will not need to be repeated once an initial determination of the location of all secure facilities is made). Facilities added to the monitoring universe as a result of each annual update will be subject to inspection and monitoring during the first full year following their addition to the universe.

B. Classification of the Monitoring Universe

DFYS has already classified facilities included in the monitoring universe upon which the 1986 monitoring report is based. The current classification of each of these facilities will be retained for purposes of the 1987 and 1988 monitoring reports. Of the 81 facilities added to the monitoring universe since 1986, three are operated by the Department of Corrections and 78 are municipal and locally operated rural holding facilities. The Department of Corrections facilities are designated by the state as adult correctional facilities and will be provisionally classified as such pending on-site inspection. None of the rural holding facilities is currently under contract with the state "to detain adults charged with violating criminal law, pending trial" or "to hold convicted adult criminal offenders sentenced for less than one year" [see the definition of adult jail at 28 CFR Part 31.304(m)]. These will therefore be provisionally classified (pending on-site inspection) as adult lockups, pursuant to the definition at 28 CFR Part 31.304(n).

Facilities added to the monitoring universe in 1988 will be provisionally classified by the Justice Center, based on state and federal definitions. Facilities which are not already classified by one or more state agencies in a manner which renders state definitions amenable to comparison with federal definitions will be provisionally classified according to an assessment of the appropriate classification based upon all available information.

Each secure facility will be inspected at least once every three years to ensure that its classification remains adequate. This inspection will be conducted in conjunction with other aspects of the inspection of facilities, as discussed below.

C. Inspection of Facilities

Beginning in 1988, one-third of all secure facilities in each classification category will be inspected annually. As required

under the terms of 28 CFR Part 31.303(f)(1)(i)(C), on-site inspections will include (a) examination of the entire physical plant to determine whether the facility is secure as defined in the regulations and to determine its proper classification (i.e. as an adult jail, adult lockup, etc., as these terms are defined in the JJDP Act), (b) inspection of all areas of the facility to determine whether there is adequate separation in each area of juvenile and adult offenders and c) review of the record keeping system at the facility to determine whether facility records are sufficient for valid determination of compliance with Section 223(a)(12), (13) and (14) of the JJDP Act.

During the first three years following implementation of the monitoring system described herein, selection of facilities for inclusion in the sample to be inspected each year will be guided by the following considerations:

(1) each facility visited for data collection and/or verification purposes (see below) will be inspected during the same visit;

(2) all facilities in each community which may conveniently be visited en route to a site visit for data collection/ verification purposes will also be inspected unless such facilities have already been inspected within the three-year inspection cycle;

(3) each facility which may provide adequate separation of juvenile and adult offenders will be inspected during the first full year following its addition to the monitoring universe or its claim to have achieved separation;

(4) each facility for which an appropriate provisional classification is not apparent should be inspected during the first full year following its addition to the monitoring universe;

(5) facilities for which there is evidence of a possible change of classification will be inspected during the first full year following submission of such evidence;

(6) if fewer than one-third of all secure facilities in each classification category are sampled under the above procedures, additional facilities in those classification categories which have been undersampled will be selected for inclusion in the sample based on factors including but not limited to: proximity to other sites selected for inspection, past record of violations, cost of airfare to each facility and specific requests for inspection by appropriate officials.

Beginning in 1991, selection of facilities for on-site inspection will become largely routinized. Each facility inspected in 1988 will be re-inspected in 1991, those inspected in 1989 will again be inspected in 1992, and so on. Once all facilities in the monitoring universe have received at least one

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on-site inspection, the only deviations from this inspection schedule will be (1) to add to each annual sample the facilities added to the monitoring universe during the previous year and (2) to add those facilities which some other consideration (e.g., the possibility of a change in classification and/or separation status or a special request for inspection) indicates should also be inspected.

D. Data Collection and Verification

Monitoring for jail removal, deinstitutionalization and separation will in all instances entail collection of data directly from original admission/release records or certified reproductions of original records. All data used in preparation of monitoring reports for 1987 and 1988 will be collected by the Justice Center. In subsequent years, data will be collected by DFYS or an agency contracted by DFYS to complete all monitoring tasks. Self-report data will not be used for JJDP monitoring. The procedure which will be employed in collection, verification and analysis of monitoring data is described below.

1. Sampling and Data Collection

In November, 1988, and in March of each year thereafter, each facility classified as a correctional center, detention center or adult jail will be contacted by mail and requested to provide either a photographic reproduction of its admission/release logs for the previous calendar year or a data tape or disc duplicated from its original computerized records for that year. (In 1988, facilities will also be requested to provide copies of their admission/release logs for 1987). Each facility will also be asked to provide a statement, signed by the facility superintendent or other appropriate official, indicating that the photocopy, disc or tape is a complete and unaltered reproduction of its admission/release logs for the year.

A follow-up telephone call will be made to each facility which does not respond to the request for admission/release records within two weeks of the initial request. In each case, an effort will be made to obtain compliance with the request to provide a reproduction of such records. Any facility which refuses to comply with the request will be provided with a copy of the provisions in Alaska Statutes (AS 47.10.150 and AS 47.10.160) which authorize inspection of facilities and collection of data.

It is anticipated that facsimile records will be obtainable from all facilities in these categories. In the event that one or more facilities are unable to provide photocopied admission/release logs, a random sample (stratified by type of facility if more than one type is involved) of 50 percent of such facilities will be scheduled for on-site visitation for the purpose of recording the information necessary for compliance monitoring.

An alternative - and preferred - procedure will be used for collection of data where record keeping is centralized (e.g., on

a statewide computer system, as is currently the case for adult correctional facilities under the jurisdiction of the Department of Corrections) or where reproductions of admission/release records are routinely forwarded to a central location for analysis and/or reference purposes (as is the case for state-contract jails, all of which provide the Department of Public Safety with reproductions of admission/release logs). Where such centralized records are available and arrangements can be made for duplication, the appropriate records and the accompanying certification of authenticity will be obtained from whichever official is ultimately responsible for maintenance of the centralized files. In this event, individual facilities will be contacted directly only if the official from whom the records are obtained is unable to provide adequate verification of their authenticity and additional verification is therefore required.

Because of the large number of adult lockups added to the monitoring universe in 1988, and the difficulty and expense of village travel in Alaska, collection of data from all adult lockups is not feasible. Data will be collected from a sample of 50 percent of these facilities, and compliance with the requirements of section 223(a)(12), (13) and (14) of the JJDP Act will be projected for all adult lockups based on these data.

Data will be collected annually from a stratified cluster sample* of facilities in this classification. Selection of facilities for collection of data to be used in compiling monitoring reports for 1987 and 1988 will proceed as follows:

The monitoring universe currently includes 78 municipal and locally operated rural holding facilities, each of which will be provisionally classified as an adult lockup pending on-site inspection. These facilities will be grouped into several clusters of facilities which are located in neighboring communities and, to the extent possible, which are located along a single commercial air carrier route. The clusters will be stratified according to the general region of the state in which they are located and a list of the clusters, as so stratified, will be compiled. A 50 percent sample of clusters will be selected from this list through a systematic sampling technique with a random start (i.e., a coin-toss will determine the first cluster to be selected and every second cluster following it on the list will

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*Although simple random sampling of adult lockups would permit a more straightforward procedure for selecting facilities for data collection, cluster sampling is a far more cost-effective method of selecting a sample from among an array of widely scattered villages. The costs involved in collecting data on-site in a simple random sample of Alaska Native Villages are potentially astronomical. Cluster sampling is considered not only more prudent, from the standpoint of efficiency, but also equally valid for statistical projection of compliance data.

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also be selected). Each facility in these clusters will be included in the final sample.

Each facility selected for inclusion in the sample will be contacted by mail and also by telephone in early November, 1988. Those facilities which indicate that admissions and releases are not recorded or that all information necessary for compliance monitoring is not routinely recorded will be provided with sample forms, instructions and other information which may be used to initiate an appropriate record keeping system. No site visit in 1988 will be scheduled for any facility which reports a complete lack of records or records insufficient to determine if juveniles were held in the facility unless some such visits are found to be necessary in order to meet the sampling ratio for on-site inspections as discussed above. Nor will any effort be made to estimate or project compliance data for these facilities. Each such facility will, however, be scheduled for on-site inspection in 1989 or 1990, and training in appropriate record keeping methods will be included in these visits.

Of those lockups in the sample which do maintain adequate admission and release records, those which are able to provide reproductions of their original records will be asked to do so, and site visits to these facilities will be scheduled only as necessary for verification and/or inspection purposes and according to the procedures for inspection and verification described elsewhere in this plan. The remainder will be scheduled for site visits in November and December, 1988, at which time their admission/release records will be reviewed and the following information will be recorded for each instance of juvenile detention: Date in, time in, name, birthdate, charge, date out, time out. Additional information relating to valid court order exceptions or other monitoring considerations will also be recorded as appropriate.

Adult lockups which are not included in the data collection sample will be surveyed in December, 1988 to determine which of these maintain adequate admission/release records. Those which indicate that records sufficient for compliance monitoring are not maintained will be provided with appropriate forms and information, as discussed above.

In the event that the total number of lockups scheduled for on-site data collection in 1988 falls short of 26 (the number of lockups which must be inspected on-site in 1988), additional clusters sufficient to achieve a 50 percent data collection sample and a 33 percent inspection sample will be randomly selected from among those not in the original sample. The facilities in this supplementary sample which maintain adequate records will be asked to provide facsimile records if possible. Those which maintain adequate records but are unable to submit them by mail will be added to the list of lockups scheduled for on-site data collection.

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Selection of lockups for data collection in years subsequent to 1988 will not require independent selection of a representative sample each year. Selection of a representative sample of 50 percent of lockups for data collection in 1988 will necessarily leave an equal-sized - and equally representative - sample of facilities from which data will not be collected for purposes of monitoring detentions in 1987 and 1988. In effect, a second representative sample will be selected simultaneously. This sample, with the addition of 50 percent of facilities added to the monitoring universe in 1988 (selected through procedures comparable to those outlined above), will be monitored in 1989. In subsequent years, the two samples can be employed alternately without sacrificing representativeness, provided that appropriate modifications are made to accommodate adjustments in the monitoring universe from year to year and that the procedures described above for supplementary sampling are applied as necessary.

2. Verification

Since no self-report data are used in monitoring, it is unnecessary to verify data on-site. The authenticity of photocopied records will be verified by requiring each facility superintendent or other official who submits facsimile records to sign a statement certifying that the records submitted are unaltered reproductions of original records and that a record of every admission to the facility during the monitoring period is included. Standard statistical procedures for verification of direct entry data will be employed to ensure the validity of all data transferred from facility records to computer files for compliance monitoring analysis.

Verification of valid court order exceptions to the deinstitutionalization requirement of the JJDP Act [Section 223(a)(12)(A) of the JJDP Act and 28 CFR Part 31.303(f)(3)] will require on-site examination of facility records pertinent to each instance of juvenile detention in which the exception may apply. In order for the exception to be applied in a given case, the person performing the on-site verification must specifically determine that each condition enumerated in 28 CFR Part 31.303(f)(3) is satisfied. If facility records are insufficient to support a determination of the presence or absence of a violation, the detention must be reported as a violation of Section 223(a)(12)(A) of the JJDP Act.

3. Data Analysis

Annual data for all years except 1988 will normally include a full 12 months of data for all facilities classified as correctional centers, detention centers and adult jails and for all facilities which, selected for inclusion in a 50 percent sample of adult lockups, indicate that they maintain records of

admissions and releases.* Data for 1988 will be based on the same sample of facilities used for the 1987 monitoring report but will include only 10 months of data for each facility monitored.

Juvenile detentions in November and December, 1988 will be projected in the following manner: For each category of facility, the proportion of all juvenile detentions in 1987 which occurred in January through October of that year will be computed. Each recorded instance of juvenile detention in 1988 will be weighted by a factor equal to the reciprocal of the proportion computed for facilities in the appropriate classification prior to analysis of data.

In addition to projection of data for November and December, 1988, it will also be necessary each year to project data for facilities which are not sampled that year. To do this, each instance of juvenile detention in a facility which is part of a sample of less than 100 percent of facilities within a classification or portion of a classification will be weighted by a factor equal to the reciprocal of the probability of selecting any single facility for inclusion in the sample (e.g., facilities which are part of a 50 percent sample will be given a weight of 2) prior to analysis of data.

All aspects of data analysis for the 1987 and 1988 monitoring reports will be performed on the DEC/VAX 8800 mainframe computer at the University of Alaska Anchorage, using the SPSSx Data Analysis System, Release 3.0.

II. Barriers to Implementation of the Monitoring System

The major barriers to implementation of a monitoring system in Alaska are intimately bound up with the nature of the state's people and geography. Over 200 Alaska Native villages and about 25 larger and more heterogeneous cities and towns are scattered across nearly 600,000 square miles of rugged and otherwise desolate territory. Many of the people do not read, write or speak English fluently. Western cultures, lifestyles and legal systems are unfamiliar to a large portion of the population. Travel to most rural communities must be by air or water, as highways are limited to the population centers of central and southcentral Alaska, and air service, especially to the smaller and more isolated communities, can be infrequent, expensive, undependable and, especially in winter, extremely dangerous.

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*Note, however, the provisions for modification in sampling ratios which may be necessitated by 1) the failure of some correctional centers, detention centers and/or adult jails to submit facsimile records by mail, or 2) the failure of an initial 50 percent sample of adult lockups to produce a critical mass of one-third of all such facilities from which data will be collected on-site. Any such modifications will alter the sampling ratios for facilities in affected classifications.

[Part 4]

A task as seemingly simple as identifying and classifying facilities is confounded by (1) the absence of any system for licensing or oversight of municipal holding facilities; (2) the absence in some villages of more than a single telephone or radio for communication with the outside world; (3) the fact that in most rural villages a single police officer or Village Public Safety Officer (VPSO) must serve as jailer, fire department, dog catcher, search and rescue team and a host of other roles in addition to normal policing duties, and may be out of town altogether - for training or some other function - for weeks at a time; and (4) the lack of any formally recognized or sanctioned facilities for holding adult or juvenile arrestees.

While identification of the monitoring universe is problematic, the barriers to collection of data are enormous. Communication with village officials is itself problematic, as discussed above. Travel to villages can be very hazardous in inclement winter weather, and flight delays of a week or more are commonplace. Photocopying equipment which might facilitate data collection is not available in some communities, and in others access to such equipment may be limited.

Perhaps most important of all the barriers to implementation of a compliance monitoring system in Alaska is a pervasive pattern of poor or non-existent record keeping among public agencies serving rural Alaska. There is reason to believe that many, if not most, facilities classified as adult lockups simply do not maintain any record of detentions. Where records are kept, they may be incomplete or hopelessly disorganized (e.g., the only records maintained at some facilities are the personal notebooks detailing all routine activities of the village public safety officer and/or the arrest reports which are filled out for all persons charged with offenses, whether or not they are detained, and which may refer to detention only obliquely in the narrative portion of the report).

The monitoring plan establishes a procedure for identifying these facilities, providing them with information and forms with which to implement a record keeping system, and training local officials on-site in record keeping methods. There is, however, no reason to believe that all facilities which do not now maintain adequate records will immediately begin to do so upon receiving information and training. Until officials at each rural lockup in the state can be educated, not only in appropriate methods for maintaining records, but also in the need for doing so, there is no acceptable way to monitor those facilities which do not maintain adequate records of admissions and releases. Nor can data be projected for them in a statistically valid manner. There is no reason to expect that facilities which have thus far functioned in the absence of booking records are at all comparable in their detention practices to those which have felt a need to keep such records. The monitoring plan presents no method for estimation of compliance with JJDP Act requirements because there is currently no satisfactory method for doing so. But the plan does establish a procedure for implementation of

record keeping systems sufficient for monitoring purposes, and this procedure - although it brings with it no guarantee of success - provides a mechanism for steady progress toward the goal of full implementation of the monitoring system.

III. Violation Procedures

Each facility found to be in violation of the jail removal, separation and/or deinstitutionalization requirements of the JJDP Act will be notified in writing of the number of violations and the nature of each violation which occurred during the monitoring period. An explanation of each type of violation will be provided, along with suggested methods for avoiding future violations. Facilities will be informed of alternatives to detention which are available to them, and they will be notified that DFYS is prepared to work with them to prevent violations and to help them avoid situations where they may be subjecting themselves to possible liability by detaining juveniles inappropriately.

APPENDIX

Timetables for Completion of Monitoring Tasks

MASTER TIMETABLE FOR COMPLETION OF MONITORING TASKS

TASK	MONTH											
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Identification of Monitoring Universe for Following Year												
- Survey AST commanders											*	*
- Request lists of facilities from DOC, DPS and DHSS											*	*
- Survey Area Court Administrators											*	*
Classification of the Monitoring Universe for Following Year												
- Classify facilities												*
Inspection of Facilities												
- Identify facilities for annual inspection			*									
- Contact facilities to schedule on-site visits			*	*	*	*	*	*				
- On-site inspections				*	*	*	*	*	*			
Data Collection and Verification[a]												
- Select sample for annual data collection			*									
- Contact facilities to request mail-in data			*									
- On-site data collection				*	*	*	*	*	*			
- Data entry					*	*	*	*	*	*		
- Analysis of Data										*	*	*
- Prepare Monitoring Report											*	*

[a]The 1988 monitoring report will be based on data collected in November and December, 1988. The next round of data collection will therefore begin in March, 1990.

TIMETABLE FOR COMPLETION OF MONITORING TASKS - 1988

TASK	MONTH			
	Nov	Dec	Jan	Feb
Identification of Monitoring Universe for 1989				
- Survey AST commanders	*	*		
- Request lists of facilities from DOC, DPS and DHSS	*	*		
- Survey Area Court Administrators	*	*		
Classification of Monitoring Universe for 1989				
- Classify facilities		*	*	
Inspection of Facilities				
- Identify facilities for annual inspection	*			
- Contact facilities to schedule on-site visits	*			
- On-site inspections	*	*		
Data Collection and Verification				
- Select sample for annual data collection	*			
- Contact facilities to request mail-in data	*			
- On-site data collection	*	*		
- Data entry		*	*	
- Analysis of Data			*	*
- Prepare 1987 Monitoring Report			*	
- Prepare 1988 Monitoring Report				*
- Prepare Procedures Manual				*

PART 5

FIELD AUDIT OF COMPLIANCE MONITORING SYSTEM

ALASKA

SEPTEMBER, 1987

FIELD AUDIT OF COMPLIANCE MONITORING SYSTEM

ALASKA

SEPTEMBER, 1987

OJJDP Auditor: Paul Steiner

State Relations and Assistance Division

Alaska Field Audit

1. Purpose

Pursuant to Sections 223(a)(15) and 204(b)(7) of the Juvenile Justice and Delinquency Prevention (JJDP) Act, a field audit of Alaska's compliance monitoring system was conducted from September 28 - October 3, 1987.

The purpose of the field audit was to determine the extent to which Alaska's system for monitoring compliance with the deinstitutionalization, separation, and jail removal provisions of the JJDP Act, satisfies the requirements for monitoring contained in the Final Regulation (28 CFR Part 31).

The field audit was preceded by a desk audit which involved a review of Alaska's written description of its compliance monitoring system. In keeping with generally accepted auditing principles, the field audit was carried out as an on-site verification of the written description.

2. Field Audit Schedule

Monday, September 28

Major Activities: Interviews and discussions regarding the state's compliance monitoring system; document reviews.

Persons Contacted:

Yvonne Chase, Director
Division of Family and Youth Services
Department of Health and Social Services

Russell Webb, JJDP Coordinator
Division of Family and Youth Services

Tuesday, September 29

Major Activity: Data Verification at the Ketchikan Regional Jail

Persons Contacted:

Alan Bailey, Assistant Superintendent
Ketchikan Regional Jail
Alaska Department of Corrections

Marlyn Olson, Regional Administrator
Division of Family and Youth Services

Richard Roberts, Probation Officer
Division of Family and Youth Services

Russell Webb

Wednesday, September 30

Major Activity: Data verification at the Sitka Jail

Persons Contacted: John Newell, Chief of Police
Sitka Police Department

Wolf Courdan, Jailer
Sitka Police Department

Marlyn Olson

Russell Webb

Thursday, October 1

Major Activity: Data verification at the Johnson Youth Center, Juneau

Persons Contacted: Gregory Roth, Superintendent
Johnson Youth Center

Kim Scott, Unit Leader
Johnson Youth Center

Marlyn Olson

Russell Webb

Saturday, October 3

Major Activity: Exit conference and review of audit findings

Persons Contacted: Yvonne Chase

Russell Webb

In addition, I briefed the Juvenile Justice and Family Advisory Committee (SAG) on the audit findings vis-a-vis Alaska's compliance status, on Friday and Saturday, October 2-3. The members present are as follows:

Roberta Carnahan, Chairperson (Fairbanks)
Thomas Begich (Anchorage)
Linda Big Joe (Fairbanks)
Lucy Sparck (Bethel)
Jay McCarthy (Anchorage)
Susan Wibker (Juneau)

Also, I met with Richard Illias, Chief of the DFYS Youth Services Section, and Russ Webb to discuss the preliminary audit findings and strategies to address issues raised by the audit.

3. Monitoring System

A. General Description

The Division of Family and Youth Services, (DFYS) Department of Health and Social Services, (DHSS) is the designated agency for administering the JJDP Formula Grant. The JJDP Coordinator in DFYS coordinates the annual collection of monitoring data by the DFYS Probation Officers and detention center staff from state and local facilities. The data is analyzed by the JJ Coordinator and submitted annually by the Director of DFYS to OJJDP in the standard monitoring report format.

Eighteen adult jails and four regional juvenile facilities are monitored. There are no lock-ups in Alaska. The Probation Officers annually inspect jails for sight and sound separation.

B. Authority to Monitor

Alaska Statutes (AS) 47.10.150, 47.10.160, and 47.10.180 grants DHSS broad authority to require and collect statistics on juvenile offenses and offenders, inspect all facilities that hold juveniles, and adopt standards and regulations for facility design and operation.

DHSS, however, does not exercise this regulatory authority vis-a-vis the JJDP Act. There are no written regulations, policies, or procedures for the regular monitoring and inspection of facilities.

In practice, DHSS has obtained the cooperation of all the facilities that are monitored by means other than regulation. It appears that state and local facilities readily share admission and population data with DHSS.

C. Compatibility of Definitions

1. Status Offender: AS 47.10.290 defines a "child in need of aid" (CHINA) as "a minor found to be within the jurisdiction of the court under AS 47.10.010(a)(2)." This latter cite refers to children who: are habitually absent from home; refuse to accept available care; are abandoned or parent's rights have been terminated; are in need of medical (including mental health) treatment; are neglected or physically and/or sexually abused or in danger of being abused; or are delinquent as a result of parental pressure.

   For DFYS purposes, the working definition of status offenders is illustrated, in a May 16, 1983 memorandum from David E. Arnold to Jerry Jackowski, to wit:

   > Status Offenders are defined as all youth law violators who are arrested for violations which would not be a law violation if they were an adult. Examples of these are runaways, truancy, and curfew violations.
   >
   > Liquor violations are not included because 18 year olds are considered adults by law, however can still be arrested for liquor violations.

   AS 04.16.180 specifies that minor liquor law violations are class A misdemeanors.

   For monitoring purposes, DFYS has not been counting liquor law violations as status offenders. (See Findings and Recommendations).

2. Non-Offenders: Non-offenders are included in the CHINA definition noted above.

3. Delinquent: As 47.10.290 defines "delinquent minor" as a "minor found to be within the jurisdiction of the court under AS 47.10.010(a)(1)." This cite refers to state and municipal criminal violations. AS 47.10.010(b)

excludes non-felony traffic, and fish and game violations from this provision and directs that they be treated as adults.

4. Sight and Sound Separation: AS 47.10.130 prohibits the incarceration of juveniles in jails unless the juvenile is "assigned to separate quarters so that the minor cannot communicate with or view adult prisoners."

   This is the definition of sight and sound separation used for monitoring purposes, as noted on the "Instructions for State Monitoring Report Data Collection Sheet", attached to the July 27, 1987 memorandum from Dave Arnold to the Regional Administrators regarding the JJDP Monitoring Report.

5. Secure: There is no explicit definition of secure for monitoring purposes. AS 47.10.290 defines "juvenile detention facility" as separate quarters within a city jail, and "detention home" as a separate establishment exclusively devoted to the short-term detention of minors.

6. Valid Court Order: There is no explicit definition of valid court order. As 47.10.140 describes juveniles' due process rights for detention and requires a detention hearing within 48 hours.

7. Deinstitutionalization of Status Offenders: The Alaska Supreme Court ruled in 1971 that CHINA's cannot be institutionalized. DFYS policy, described in the Fairbanks Youth Facility "Detention Admission Policy and Procedure" prohibits detaining CHINA's. However, as previously described, liquor law violators are not considered CHINA's.

8. Separation: See Section C.4 above.

9. Jail Removal: As noted in Section C.5 above, "juvenile detention facilities" are defined as a separate part of a jail. AS 47.10.140 authorizes detention of delinquents in "juvenile detention facilities." AS 47.10.080 authorizes DHSS to place committed minors in "juvenile detention facilities."

AS 47.10.010(b) classifies juvenile traffic and fish and game violators as adults and thus allows their detention and sentencing to jails.

As described in Section C.7 above, CHINA's cannot be held in jails; this does not apply to liquor violations.

Since Alaska does not have a 24-hour detention hearing requirement, DFYS has never sought non-MSA exceptions.

D. Identification of the Monitoring Universe

DFYS monitors all facilities that are operated or under contract by the State; thus, the universe consists of the four DFYS operated detention centers and eighteen jails under contract to the Department of Public Safety or operated by the Department of Corrections.

DFYS does not include in the monitoring universe the many jails (there are no lock-ups in Alaska) that are not under DPS contract.

Likewise, community-based facilities and health and mental health facilities are not included in the universe (see Findings and Recommendations).

E. Classification of Facilities

In practice DFYS classifies all jails and detention centers as secure. DFYS does not review community-based programs for secure components, even though DHSS regulations (7AAC 50.053) allows the use of locked isolation rooms in community-based programs. Likewise, hospitals and mental health facilities are not considered for classification as secure (see Findings and Recommendations).

F. Monitoring Period

Alaska's data is reported on a Calendar Year basis.

G. Inspection of Facilities

DFYS Probation Officers inspect DPS contracted jails annually for sight and sound separation; there are no inspections specifically to determine the adequacy of each facility's record keeping. No other facilities are inspected for JJDP monitoring purposes. Furthermore, there are no detailed policies and

procedures for the inspection of facilities (see Findings and Recommendations).

H. Data Collection and Verification

The DFYS Regional Administrators assign Probation Officers to collect monitoring data from the DPS contract jails in their respective districts. Data from the DFYS detention centers is gathered by DFYS staff at the detention centers. The data is collected at each facility according to written instructions provided by the JJDP Coordinator, and recorded on a form accompanying the instructions. The information sought for each facility includes: sight and sound separation; date of birth; offense; date of admission; duration of detention; offense; accused or adjudicated.

The data collection sheets are forwarded to the JJDP Coordinator for analysis and compilation for the JJDP monitoring report.

The data collected from the individual facilities has never been checked for accuracy. Likewise, the review of the jails for sight and sound separation has never been verified. (See Findings and Recommendations).

I. Method of Reporting

DFYS uses the standard OJJDP format for reporting the monitoring data.

J. Violation Procedures

Since DFYS operates the detention centers and controls admission to the centers, DFYS has set policies procedures to assure that status offenders are admitted. As noted earlier in this report, however, these policies do not apply to juvenile liquor violations. Nonetheless, it appears that DFYS has authority to prohibit the detention of liquor violations. (See Findings and Recommendations).

Unfortunately, DFYS has less control over juveniles in jails, and thus greater difficulty in addressing violations of the JJDP Act in jails. However, AS 47.10.130 provides a clear statutory prohibition against jailing children unless they are provided adequate separation. This provision, plus DHSS'regulatory authority, could provide DHSS a vehicle for promoting, if not enforcing separation and removal. (See Findings and Recommendations).

4. Other Issues

A. Given Alaska's unique geography, demography, and climate, DFYS faces very difficult barriers in administering the JJDP program, including monitoring. Alaska has never devoted any JJDP funds towards planning, administration, and monitoring. Discussions with DFYS staff indicate that the FY 1988 and a revised FY 1987 plan will, for the first time, devote resources for these purposes.

B. Alaska has invested over $12 million since 1980 for construction of four regional detention centers. These centers should be operational this year and will be an important component of a statewide jail removal strategy.

C. One of the most pervasive problems facing Alaska's juvenile justice system is alcohol abuse. The lack of programs to deal with the alcohol abusing juvenile results in jails and detention centers being used as detoxification centers. In fact, recent court rulings have required law enforcement officials to take into custody any person who is so intoxicated as to be a danger to him or herself; the only residential placement available for the vast majority of these individuals is jail.

DFYS is working with the State Office of Alcohol and Drug Abuse to establish regional treatment centers that can be used as an alternative to jail.

5. Compliance Data Verification

A. Ketchikan Regional Jail

The Ketchikan Regional Jail serves Ketchikan and Prince of Wales with a total population of approximately 13,000. The major sources of revenue for this area are fishing, timber, and tourism.

There is a dearth of residential alternatives available for the placement of juveniles; juveniles are generally either returned home or held in the jail. There are no detoxification services available.

The 63-bed jail is operated by the Alaska Department of Corrections. The facility has been in operation for approximately four years. All the cells have double bunks except the four intake cells which have triple bunks. One or two of the intake cells are used for juveniles; these cells have neither audio nor video

monitoring. In addition, juveniles that need to be held for only a very short period of time may be confined in the interview room, which is a sound proof room under continual sight supervision by the control center and booking desk.

Juveniles that are admitted to the jail are subject to the same procedures as those employed for adult admissions. Juveniles are brought into the booking area for admission processing, taken to the clothing storage area for a search, and admitted to the intake cells or the interview room. Juveniles receive at least hourly visual checks in the intake cells, and more frequently if the juvenile is intoxicated or poses a suicide risk.

The facility design and the Jail's policies and procedures raise the following concerns regarding compliance with the JJDP separation requirements:

- There are no policies and procedures to assure the time phased use of the booking area;
- The intake cells provide sight but not sound separation;
- The interview room provides sound but not sight separation;
- The showers provide sight but not sound separation.

The data review consisted of reviewing the 479 jail admissions for February, May, August, and November, 1986. The Jail recorded all admissions on the Alaska Department of Corrections "Daily Count Sheet" which contains date of birth, times and dates of admission and release, race, and sex. Since the Daily Count Sheets do not indicate offenses, I also reviewed the Probation Officer's Intake Log and contact file. Rick Roberts, the PO, was very knowledgeable about every case and provided any additional information that I requested. I also obtained the Juvenile Incarceration Report, generated by a DHSS automated program, which gives offense, date of admission and release, and total time held.

In spite of all these sources, it was still difficult to verify the data due to conflicting information regarding offenses. Nonetheless, my review revealed that 17 juveniles were admitted during the four months audited. All 17 of these admissions would be violations of the separation requirements due to the facility design and lack of policies and procedures

described above. Of these 17 admissions, there were 12 held in excess of six hours which would constitute violation of the jail removal requirement. Some of the five juveniles held less than six hours may have been status offenders and would have also been a violation of the removal requirement, but their offenses could not be verified.

The data collected by DHSS for monitoring purposes contained the following shortcomings:

- The jail was reported as providing adequate separation;
- Only 14 of 17 admissions were reported;
- All but one reported admission were listed as accused delinquents, yet it appeared that there were five additional juveniles sentenced to jail for DWI.
- The offenses for four of the juveniles recorded on the monitoring data collection sheets do not correspond to the offenses recorded on the DHSS Juvenile Incarceration Report.

The following findings pertain to the Ketchikan Regional Jail:

1. The jail does not provide adequate separation so all juvenile admission should be considered as separation violations.

2. DFYS should develop alternatives to the jail. Given the fact that virtually all of the admissions to the jail, with the exception of DWI sentences, are for less than one day, it appears that the use of short-term, non-residential as well as residential alternatives would be appropriate. The number of juveniles jailed could be significantly reduced by using a holding area outside the secure area of the jail which has continual sight supervision for juveniles who are awaiting parents. In addition, the number of alcohol related offenses indicates the need for alternatives and services in this area.

3. The data review indicated that DFYS needs to improve the data collection process. Particular attention should be paid to the definition of separation and the recording of offenses, especially recording the most serious offense.

In general, the Ketchikan Regional Jail appears to be a

well operated and professionally managed facility, but is not designed to detain juveniles. DFYS should work with the Department of Corrections, the Department of Public Safety, and the local community to develop alternatives to the use of the jail for sentenced, as well as accused juveniles.

B. Sitka Police Department Holding Facility

The major sources of revenue for Sitka's 8500 residents are fishing, tourism and timber. The Sitka Holding Facility is under contract to the Alaska Department of Public Safety.

The Police Department, court, and probation office pursue a policy of minimizing the jailing of juveniles. Most juveniles are returned home as quickly as possible, and a few are placed in emergency foster care. Although state law requires a detention hearing within 48 hours, most hearings in Sitka are held within 12 hours.

The facility has 15 beds (14 double bunked) and a holding tank. One of the two double bunked female cells is used for holding juveniles; these two cells are in a separate section from the rest of the jail.

Juveniles are brought to the same booking area as adults for intake processing. The practice is to never have juveniles and adults in the booking area at the same time, although there is no written policy and procedure stating this. Most juveniles are held in a non-secure room in the police department; few juveniles are actually admitted to a cell. The juvenile cell provides sight but not sound separation from the adult female cell. Likewise, the shower shared by these two cells provides sight but not sound separation. DFYS classified the facility as providing adequate separation.

I reviewed the Booking Log for February, May, August and November, 1986. Of the 185 bookings for those months, 17 were juveniles. DFYS recorded all of these juveniles for monitoring purposes; however, we learned that not all of those juveniles are actually held in the jail. Although there was no written record, John Newell, the Chief of Police, and Wolf Courdan, the Jailer, explained that eight of these juveniles were held in the non-secure portion of the police station for very brief periods while waiting for their parents to arrive. So it appears that DFYS was overreporting the number of jail admissions. However, since only

only two of these eight juveniles would have been jail removal violations if held securely (one delinquent over six hours and one status offender), the overreporting error would be slight.

As described earlier, the juvenile cells do not provide adequate sight and sound separation (assuming female adults are occupying the adjoining cell), so all juveniles held in the juvenile cell would be considered separation violations. In addition, according to the booking log, there were seven violations of the jail removal requirement: five delinquents held more than six hours and two status offenders held. There were no violations of the status offender provision. Although DFYS recorded all these admissions correctly, two of the jail removal violations were for status offenses (minors consuming alcohol) held for less than six hours, and DFYS would not have reported these as violations to OJJDP since DFYS considered these as delinquents.

The findings regarding the Sitka Police Department Holding Facility are as follows:

1. The accuracy of the data collection process is adequate; all juveniles entered on the Booking Log for the four months reviewed, are accurately recorded on the DFYS data collection form. However, the Booking Log may be overreporting actual admissions to the jail. DFYS should work with the Sitka Police Department to make certain the Booking Log indicates when juveniles are not admitted to a cell.

2. The Sitka Police Department has very good policies and procedures for the custody and release of juveniles. The policies and procedures are concise, understandable, and promote the limited use of secure confinement. DFYS should work with the Sitka Police Department to enhance their written policies and procedures to: (a) document the current practice of assuring separation of juveniles and adults by time-phasing the use of the booking area, and (b) provide guidance on which juveniles should actually be admitted to the cells and which juveniles should be held outside of the secure area of the jail and where and how they should be supervised.

3. The juvenile cell does not provide sound separation, so juveniles admitted to the cell are violations of the separation requirement. Since

the jail was classified as providing adequate separation, DFYS should assess the criteria and process used to determine separation.

4. The number of bookings for Minors Consuming Alcohol indicates the need for services and alternatives in this area.

The practices at the Sitka Police Department reflect the system's and the community's concern for troubled and troublesome juveniles. This should provide a solid basis for DFYS'efforts towards compliance with the JJDP Act in Sitka.

C. Johnson Youth Center, Juneau

As the state capital, Juneau's economy relies heavily on government. Income for the burrough's 20,000 residents also comes from the timber and fishing industries.

The Johnson Youth Center is operated by DFYS and was built in 1981 as a combined facility for juveniles and female adults. Since 1985, the Center has held only juveniles and is now applying for ACA accreditation.

The facility has four double bunk rooms; there are two rooms in each of two sections having a common area for recreation and meals. The Center has at least two staff per shift on duty.

The data verification was conducted by reviewing the monthly movement statistics sheets and the monthly reports for the Youth Center, and comparing them to the monitoring data collection sheets. The movement statistics and monthly report contain dates and times in and out and usually the offense. In many instances, however, "detention order" was listed instead of offense, making verification difficult. The verification was further complicated by the fact that the movement statistics were arranged alphabetically while the monitoring data was collected chronologically. As a result, I checked only every other case listed as an admission on the monthly movement sheets for February, May, September, and November, 1986. The data for August was unavailable.

There were 111 admissions for the four months I reviewed, and I tested 53 admissions for accuracy in reporting for JJDP monitoring. Of these 53 cases, I found that DFYS accurately recorded data for 22. Among these 22 verified cases, I found six status offender

violations, all minors consuming alcohol.

The inability to verify more admissions was the result of incorrectly recorded times on the monitoring data form, unknown offenses, and unreported admissions. It was impossible to determine the number of valid court order violations.

The findings pertaining to the Johnson Youth Center are as follows:

1. DFYS should review the data collection process in order to develop more accurate and verifiable data. DFYS should include the dates of court hearings in the data collected so that compliance with the valid court order exception can be determined.

2. As noted earlier in this report, minors charged with alcohol offenses are status offenders for JJDP monitoring purposes and if held for more than 24 hours, excluding non-judicial days, would be considered as violations of Section 223(a)(12)(A) of the JJDP Act.

3. Since the Johnson Youth Center is applying for accreditation, DFYS is encouraged to seek technical assistance from OJJDP and ACA to facilitate compliance with ACA standards.

4. It appears that many juveniles are detained for relatively minor offenses. DFYS is encouraged to assess the system of residential and non-residential alternatives in light of detention criteria to determine if the present system is the most economical and effective system for protecting the community and the court process while providing adequate services to juveniles.

6. Findings and Recommendations

The exit conference was convened with Yvonne Chase and Russ Webb. The following findings and recommendations summarizes our discussion of the audit. Critical findings are so noted:

(1) DFYS must establish the monitoring universe by identifying all facilities, including private facilities, that might hold juveniles pursuant to

public authority, and describe how the universe is periodically updated. This requirement is explained in Chapter 1, Paragraph 6 of the Audit Handbook. (Critical)

(2) DFYS must classify all the facilities in the universe that are secure and may hold juveniles, and describe the criteria used for classifying and how the list of classified facilities is updated. (Critical)

(3) DFYS needs to assess the use of locked isolation rooms in public and private residential programs, including hospitals and mental health facilities, and determine if these facilities should be classified as secure for possible inclusion in the monitoring data collection process.

(4) DFYS must inspect all jails for separation and adequacy of recordkeeping. This can be accomplished through a variety of methods, e.g., inspecting one-third of the facilities annually. (Critical)

(5) As part of the formal monitoring process, DFYS must develop a system for reviewing facility monitoring data for accuracy and completeness. This verification review should take place on-site annually at a representative sample of at least ten percent of the facilities in each category, i.e., juvenile detention centers, jails, and juvenile corrections facilities. (Critical)

(6) DFYS needs to verify sight and sound separation in facilities that have been designated as providing adequate separation.(Critical)

(7) DFYS is strongly encouraged to continue the practice of collecting data from all the facilities that have been monitored to date. When DFYS identifies all the facilities in the monitoring universe, however, it should be noted that the Audit Handbook (Chapter 2, Paragraph 18) requires a representative sampling of at least 50% of the facilities in each category.

(8) DFYS must include minors charged or adjudicated for alcohol violations in the definition of status offenders for JJDP monitoring purpose. Alcohol violations which apply to <u>all</u> adults, e.g., public consumption or possession where prohibited by local ordinance, are considered delinquent offenses. (Critical)

(9) In order for Alaska to use the valid court order exception, DFYS needs to verify on a case-by-case basis that the juvenile received a detention hearing within 24 hours, as required by JJDP regulations. (Critical)

(10) For the purpose of monitoring for Section 223(a)(14), juveniles accused of traffic and fish and game violations are subject to the six-hour rule. Adjudicated juveniles, including sentenced DWI offenders, cannot be held for any length of time. (Critical)

(11) DFYS must develop a timetable for carrying out all monitoring compliance tasks. (Critical)

(12) DFYS is encouraged to develop a policies and procedures manual for monitoring compliance with the JJDP Act. This manual should include, but not be limited to:

(a) A list of all residential programs in the state that might hold juveniles pursuant to juvenile court authority.

(b) An indication for each of these facilities as to whether they are secure or nonsecure.

(c) A description of criteria used for classifying facilities as secure or nonsecure, public or private.

(d) The date each secure facility was last inspected for compliance with the JJDP Act.

(e) A description of the authority state agencies have for licensing and inspecting both secure and nonsecure facilities.

(f) A description of the procedure to be followed for:

(1) collecting monitoring data (include a copy of any self report forms);

(2) verifying data (what facility source documents are to be consulted and what data sets are to be reviewed);

(3) inspection of physical plant of adult facilities for separation while onsite for data collection and verification.

(g) Description of enforcement mechanisms that exist for implementation of State law, administrative rules, or standards.

(h) A copy of state statutes, judicial rules, administrative rules, and standards that parallel or support implementation of the JJDP Act.

(i) A copy of the JJDP Act, 1985 Formula Grant Regulation, and other pertinent rules and regulations.

(j) A list of contact persons in related state agencies or organizations that have monitoring responsibilities.

(13) DFYS is encouraged to develop in-service training for personnel involved in the monitoring process. The Monitoring Manual could serve as the basic text for this training. The use of JJDP funds for this purpose is allowable.

(14) Given Alaska's expansive and remote geography, DFYS should consider contracting for some of the monitoring tasks.

(15) DHSS is encouraged to formally exercise the broad regulatory authority over the confinement and custody of children granted by Alaska statutes, especially with regard to JJDP Act compliance.

(16) DHSS is encouraged to work with the Department of Public Safety to promote separation and jail removal by adopting policies and procedures coherent with JJDP requirements, and incorporating those policies in the contracts with rural jails and Native Corporations.

(17) It appears that alcohol abuse is a very significant factor in juvenile arrests and confinement. The Juvenile Justice and Family Advisory Committee (JJFAC) is strongly encouraged to make juvenile alcohol abuse a priority issue and pursue JJDP Act compliance as a means for providing more effective services for alcohol abusing juveniles.

(18) The JJFAC is strongly encouraged to make public officials aware of the existing state law on separation of juveniles and adults in jails and to use this law as a vehicle for promoting the prohibition of jailing juveniles and the development of alternatives to jails.

(19) DHSS/DFYS should examine local practices in implementing AS 47.010.130, prohibiting the detention of juveniles in jails that do not provide adequate separation from adults, and develop means for assuring this statute's implementation.

(20) The JJFAC in strongly encouraged to consider promoting changes in statutes and regulations to support JJDP Act compliance.

7. Conclusion

Alaska's annual JJDP Plan always refers to Alaska's "unique barriers" to JJDP compliance. My limited visit to Alaska to conduct this audit revealed those barriers as no written description can: they are as immense and rugged as the Alaska landscape. I left Alaska with a greater sensitivity to the problems DFYS faces in achieving compliance.

As difficult as Alaska's barriers to compliance may be, DHSS and DFYS have some advantages enjoyed by few other states. The highly centralized structure of government, the broad regulatory authority granted DHSS, and the progressive statutes regarding the care and custody of children, can provide a basis for pursuing JJDP compliance and mitigate the immensity of some of the barriers to compliance.

We look forward to working with DFYS and JJFAC to achieve compliance.

PART 6

REVISED 1987 JAIL REMOVAL PLAN

STATE OF ALASKA
Department of Health and Social Services
Division of Family and Youth Services
Revised 1987 Jail Removal Plan
December 1987

Introduction

In prior years, Alaska has addressed 18 State operated and contract jails in its annual monitoring reports. Local facilities which are located in sparsely populated rural areas of the State and hold youth in detention have not been previously addressed or monitored because they were not State operated or controlled. For the purposes of this plan, all local facilities have been identified. However, data is not available for these facilities and all data included in this plan refers to the original 18 facilities.

Alaska Jails in Which Youth Are Detained

The North Slope Borough: These holding facilities come under the jurisdiction of the Borough. Chief Edgar Martin is the municipal police chief of Barrow and the Rural Jail Administrator for the North Slope Borough. One of the jails in the Borough, the Barrow jail, is a state contracted facility and is governed through its Public Safety contract.

VILLAGE	POPULATION	VILLAGE	POPULATION
Anatuvik	203	Point Hope	464
Atqasuk	107	Nuiqsut	208
Deadhorse/Prudhoe Bay	114	Wainwright	405
Point Lay	167		

Department of Public Safety's State Contracted Rural Jails: There are seventeen rural jails under contract with the Department of Public Safety. Lieutenant Roger McCoy is the Rural Jail State Contract Administrator for the Department of Public Safety.

VILLAGE	POPULATION	VILLAGE	POPULATION
Barrow	2267	Naknek	405
Cordova	2108	Petersburg	3137
Craig	881	Seldovia	435
Dillingham	2004	Seward	2038
Haines	1154	Sitka	7611
Homer	3374	Unalaska	1630
Kake	574	Valdez	3687
Kodiak	6069	Wrangell	2376
Kotzebue	2345		

Municipal and Locally Operated Rural Holding Facilities: The Department of Public Safety contracts with Native Corporations for rural law enforcement

services. The corporations hire Village Public Safety Officers who are responsible for law enforcement in over seventy rural communities. These officers are responsible to the Native Corporation and supervising Alaska State Trooper. In these rural communities youth are booked into municipal and local adult jails. These facilities are under the jurisdiction of the local municipality or Native Corporation, not the Department of Public Safety.

Bethel Area

VILLAGE	POPULATION	VILLAGE	POPULATION
Akiachak	438	Mekoryuk	160
Akiak	198	Mt.Village	583
Alakanuk	522	Napakiak	262
Aniak	341	Napaskiak	244
Atmauthulak	219	Nunapoitchuk	299
Chevak	466	Pilot Station	325
Eek	228	Quinhagak	412
Emmonak	567	Russian Mission	169
Goodnews Bay	168	St. Mary's	382
Hooper Bay	627	Scammon Bay	250
Kotlik	293	Toksook Bay	333
Kwethluk	454	Tununak	298
Marshall	262		

Nome Area

VILLAGE	POPULATION	VILLAGE	POPULATION
Elim	211	Stebbins	331
Gambell	445	St. Michael	239
Golovin	87	Teller	212
Koyuk	188	Unalakleet	623
Savoonga	491	Wales	133
Shaktoolik	164		
Shishmaref	394		

Fairbanks Area

VILLAGE	POPULATION	VILLAGE	POPULATION
Cantwell	89	Nenana	470
Delta	945	Nulato	350
Fort Yukon	619	Ruby	197
Galena	765	Tanana	388
Huslia	188	Tok	569
Kaltag	247		

Juneau Area

VILLAGE	POPULATION	VILLAGE	POPULATION
Angoon	465	Pelican	180
Hoonah	680	Yakutat	449

Kotzebue Area

VILLAGE	POPULATION	VILLAGE	POPULATION
Amber	192	Kobuk	62
Deering	150	Noorvik	492
Kiana	345	Selawik	535
Kivalina	241	Shungnak	202

Pribilof Islands/Aleutian Chain Area

VILLAGE	POPULATION	VILLAGE	POPULATION
Akutan	169	Nondalton	173
Cold Bay	228	Port Heiden	92
Ekwok	77	St. Paul	551
King Cove	460	Togiak	470
Manokotak	294		

Kodiak Area

VILLAGE	POPULATION	VILLAGE	POPULATION
Karluk	96	Old Harbor	340

Department of Corrections: The Department of Corrections administers all state owned and operated adult correctional facilities throughout the state. Three of these facilities located in Ketchikan, Mat-Su, and Bethel have held youth.

Department of Health and Social Services: The Department of Health and Social Services, Division of Family and Youth Services, owns and operates five youth correctional centers. They are located in Juneau, Anchorage, Fairbanks, Nome, and Bethel.

Barriers to Removing Youth from Alaska Jails

Alaska's 1986 monitoring report reflects 1985 data since it is the last year for which full data is available. The baseline data is from the eighteen facilities in the monitoring report. In December 1987, in preparation for this plan, over seventy secure facilities which hold youth were identified but not included in the baseline data.

Alaska faces many barriers in reaching compliance with the jail removal requirements of the JJDP Act. Alaska is a young state and, because of its size, geography, climate, and sparse population, it lacks the infrastructure and strong system of local governments to provide services which have been long established in other states. Much of rural Alaska is outside any organized city or borough government authority. This is clearly illustrated by the circumstances facing the state in providing adequate detention services for youth.

When the baseline for measuring compliance with the jail removal requirement was established, Alaska had only one facility devoted exclusively to providing detention and secure services to youth. This was, of

course, woefully inadequate to meet the needs for detention and wholly inadequate to achieve compliance with the JJDP Act jail removal requirements. Since that time, Alaska has invested nearly $12 million in constructing a series of regional detention facilities. However, even this effort has proven inadequate because of the 20% increase in the state's youth population and increased need for detention services. Problems still exist in transporting youth from the scattered communities to regional detention facilities due to inclement weather and the wide dispersion of Alaska's population.

Since Alaska lacks a strong system of local governments and adequate tax bases, small communities are unable to provide the types of services, such as youth detention facilities, which are normally shouldered by local governments. Detention services are considered almost entirely a state responsibility. Local governments look to the state to provide for detention services directly or to reimburse them for providing the services. Unfortunately, local governments do not have enough resources to develop facilities which would achieve compliance with the JJDP Act. State resources devoted to these services have been substantial but inadequate to meet the need. These resources have targeted the development of basic state-level institutional capacity. This traditional solution cannot successfully address the problem, given Alaska's unique circumstances, without enormous and unrealistic increased fiscal support.

Data Analysis

The last detailed analysis of youth crime in Alaska was conducted in 1986, with 1985 representing the most recent full year of data. The total 4,900 statewide Part I arrests increased slightly during 1985, but the percentage of total Part I arrests attributed to youth declined to 40% compared to 47% in 1984. Also, youth arrests for violent crimes (murder, rape, manslaughter, robbery, aggravated assault) decreased 10%, from 105 to 95. Youth arrests for these crimes accounted for only 10% of all arrests for violent Part I arrests during 1985.

A cursory analysis of 1985 and 1986 data shows no significant variation from the previous data except for a slight decline in intake referrals in a number of communities. Statewide this decline totaled 2% and may be attributable, in part, to an Alaskan population exodus which began in 1986.

In general, over the nine year period, 1977 through 1985, youth crime has consisted primarily of property crime (48% of all arrests), liquor law violations (20%), status offenses (10%), and Part II crimes (20%). Arrests for violent Part I crime had made up less than 2% of youth arrests.

Overall, youth crime, as measured by arrests, has shown a consistent decrease in Alaska since 1981 despite an increase in the youth population of nearly 20%. Accordingly, the rate of youth arrests decreased 33% from 430 per 10,000 in 1981 to 286 in 1985. The rate of arrests for violent Part I crimes declined as well; although, because of the small number of such arrests, the percentage decrease is less meaningful. The rate of arrests for these violent crimes rose from 6.4 per 10,000 in 1981 to 7.9 per 10,000 youth in 1982. The rate of arrests declined steadily after 1982, reaching its lowest level, 5.5 per 10,000 youth, in 1985.

Larceny/theft led to the largest number and percentage of youth arrests in Alaska from 1977 to 1985. Arrests for these offenses averaged 1,617 arrests or 29.4% annually. Liquor law violations, excluding DWIs, averaged 1,113 arrests or 19% per year. While liquor law violations alone consistently account for 19 to 25 % of youth arrests, alcohol use is indicated in many other youth arrests. This is particularly true in rural areas where records indicate that the majority of youth detentions are for liquor law violations. Many secondary charges are also alcohol violations, when multiple charges are recorded. This problem is of particular importance in relation to the goals of the JJDP Act because these youth are held almost exclusively in adult jails.

The following information indicates the number of youth detained in 1985 for minor consuming offenses:

DFYS State Operated Youth Detention Facilities

Fairbanks Youth Facility	20
Juneau Youth Facility	90
McLaughlin Youth Facility	8
Nome Youth Facility	10

State Contracted Municipal and Locally Operated Holding Facilities

Barrow	25
Bethel	29
Cordova	3
Dillingham	2
Homer	16
Ketchikan	18
Kodiak	19
Kotzebue	39
Palmer	26
Petersburg	10
Sitka	10
Valdez	20
Wrangell	2

The continuation of high levels of alcohol related arrests of youth in rural areas has occurred despite substantial state alcohol prevention and treatment program efforts. Many of these rural communities do not allow the sale or importation of alcohol into their communities. Because of the failure of prevention, treatment and exclusion efforts to reduce the number of alcohol related detentions in rural areas, the development of alternatives to detention for youth is the best strategy for achieving the jail removal goals of the JJDP Act.

In many areas youth are held in jail as a protective measure because of the life threatening nature of exposure of an intoxicated youth to the harsh conditions of an Alaskan winter. In addition, a highly intoxicated youth can be extremely violent and combative and pose a threat to the safety of the community. Without appropriate local options or resources, the only choice may be to place youth in local jails or lockups.

The Department of Public Safety contracts for law enforcement services in rural areas with Native Corporations who employ Village Public Safety Officers. The Department of Public Safety trains but does not hire these officers since that responsibility is delegated through their contract with the Native Corporations. These contracts provide only for law enforcement personnel, so the Department of Public Safety does not have any jurisdiction over municipal or locally operated jails or lockups where these officers detain youth. Many of these rural secure facilities were constructed before passage of the JJDP Act and were not designed with the intent to hold youth. The decision to detain youth in these rural facilities rests with the arresting officers, unlike the situation in state operated youth detention facilities where a DFYS intake worker exercises control of detention admission. These communities make efforts to comply with the spirit of the law, but this is often impossible because of the lack of alternatives to detention.

Strategy for Jail Removal

The following planned activities will bring Alaska into full compliance with the deinstitutionalization, separation and jail removal requirements of the JJDP Act:

1. The Division of Family and Youth Services has increased its level of commitment to this project as evidenced by placing a full-time JJDP Project Coordinator in the Division's Central Administration Office. The primary responsibility of the coordinator is to bring Alaska into jail removal, separation and deinstitutionalization compliance. The following administrators will provide direction and assistance in addition to having some responsibilities in JJDP planning and implementation:

   The Division's Statewide Youth Corrections Administrator is the JJDP Project Coordinator's direct supervisor and is responsible for reviewing all of the JJDP Project Coordinator's work.

   The Social Services Program Coordinator will provide technical

assistance and continue to facilitate the JJDP Advisory Board's activities.

The Grants Administrator will review, edit and approve all JJDP grants before submitting them to the Division Director and OJJDP. The Grants Administrator will review requests for proposals, facilitate proposal evaluation committees, award and monitor grants and contracts.

The Division Director has overall supervision and final approval for all Division plans and implementation efforts in achieving JJDP compliance.

The Deputy Commissioner of the Department of Health and Social Services oversees the Division and the Commissioner has the ultimate authority over the Division and the Department's effort in complying with the JJDP Act.

2. The Division will use the allowable 7.5% of the JJDP award, matching it with an equal amount of state dollars, for administrative costs.

3. In October 1987, the Division began operation of 48 hour youth emergency detention services in Bethel and Nome. This will eliminate the practice of detaining youth in surrounding communities in adult jails.

4. In December 1987, the Division Director restricted youth charged with minor consuming from admittance into state operated youth detention facilities. Only youth meeting the conditions for Protective Custody, pursuant to AS 47.37.170, the State's Uniform Alcohol Act which requires a physician's certificate for admission, can be allowed admittance into detention. The Youth Corrections Administrator has implemented this policy change in all state operated youth detention facilities.

5. In December 1987, the JJDP Project Coordinator and the Youth Corrections Administrator met with the Director and discussed how the State Office of Alcohol and Drug Abuse (SOADA) could provide emergency alcohol services to youth statewide. Based on this meeting, the JJDP Project Coordinator and the Youth Corrections Administrator met with the Director of SOADA.

   SOADA is a separate entity from the Division of Family and Youth Services. Administratively SOADA is part of the Department of Health and Social Services, and has the same Commissioner as DFYS. SOADA is appropriated monies by the Legislature and awards funds to non-profit agencies to provide alcohol and drug abuse treatment, education, prevention and intervention services to adults and youth statewide.

   As a result of the December meeting, the Director of SOADA agreed that youth meeting conditions of the Protective Custody statute could access emergency alcohol services in twelve proposed reception centers throughout the state. A reception center is a combination of

detoxification beds and substance abuse assessment center.

SOADA is requesting a budget increase of $2,410,000 for FY 89 to develop these centers. The Commissioner will be working to secure this funding during the upcoming legislative session which runs January through May 1988. In January, 1988, the JJDP Project Coordinator will supply youth alcohol abuse and arrest rate statistics to SOADA. These statistics will demonstrate the need for emergency alcohol services and aid the Commissioner in efforts to secure funding for these centers. If funds are appropriated for the development of these 12 centers, the JJDP Program Coordinator and the Youth Corrections Administrator will work with SOADA in May, 1988 to develop policy and procedures for reception centers in admitting youth. In June, 1988, the Director, the Director of SOADA, and the Commissioner's Office will review and approve youth admission policy for the reception centers. The twelve proposed areas targeted for reception centers will aid the Division in deinstitutionalizing youth who are charged with minor consuming.

6. The Division will develop alternatives to detention to reduce the number of youth offenders and status offenders being detained in adult secure facilities. Using JJDP grant monies, the Division will contract with local communities to develop non-secure holdover attendant care model sites. The five areas targeted for development historically have had high numbers of non-compliant detentions. The Youth Corrections Administrator, the JJDP Project Coordinator and three Youth Corrections Regional Administrators have selected the following sites for the development of non-secure holdover attendant care models: Homer, Juneau, Kotzebue, Ketchikan, and Kodiak. Additionally, Ketchikan is targeted for the development of a transportation component and Homer for a 24 hour screening component.

   The JJDP Project Coordinator will develop Requests For Proposals (RFP) for development of the transportation component in Ketchikan, 24 hour screening component in Homer and the five non-secure holdover care models. Proposals will be solicited in February, 1988, and grants will be awarded by the end of March. The JJDP Project Coordinator will assist and monitor the grantees.

7. In 1985, the Barrow jail held 82 youth in non-compliant detention. During this same time period, Ketchikan held 34 youth in non-compliant detention in its state adult correctional facility. The Division plans to correct this situation by developing secure holdover attendant care models in accordance with JJDP requirements. The state will match JJDP grant monies 100% for capital construction.

   In January, 1988, the JJDP Program Coordinator, the Youth Corrections Administrator and the Director will meet with the Commissioner's Office to seek commitment of appropriated capital and operating monies allotted for detention and detention alternatives in Ketchikan. During this same month the JJDP Program Coordinator, the Youth Corrections Administrator, the Northern Region Youth Corrections Administrator, the Director and the Commissioner will seek commitment from the North

Slope Borough to use their appropriated monies to develop a secure holdover attendant care model site in Barrow.

If needed monies are secured, the JJDP Project Coordinator will prepare a Request For Proposal in February, 1988, with the assistance of the Police Chief of Barrow and the Rural Jail Administrator for the North Slope Borough. Competitive bids for construction and development of secure holdover attendant care sites in Ketchikan and Barrow will be solicited in March and contracts will be awarded in April. The JJDP Project Coordinator will then assist and monitor the contracts.

8. In order to ensure that youth in Alaska's rural areas are detained in compliance with the JJDP Act, the Division will work with the Department of Public Safety's State Contracted Jail and Rural Jail Administrators to add specific language to Public Safety contracts.

   In March, 1988, the Commissioner's of the Department of Health and Social Services and Public Safety will meet to review and confirm the contract additions for the FY 89 contracts with rural jails and Native Corporations. The new clauses will address: required booking data on youth, sight and sound separation requirements, JJDP six hour exception rule and will prohibit detaining all status offenders pursuant to the JJDP Act.

9. The State Contract Rural Jail Administrator for the Department of Public Safety, is requesting an additional $373,000 for cell area construction for FY 89. This cell area construction will allow youth to be out of sight and sound of the rest of the adult inmate population. The construction is targeted for adult rural jails which hold over eighteen youth annually.

   In January, 1988, the JJDP Project Coordinator will meet with the Rural Jail Administrator to review the cell area construction plan and ensure compatibility with JJDP Act separation requirements. In February, 1988, the Director and the Commissioner will advocate for the Department of Public Safety's budget appropriation before the legislature.

   In March, 1988, the JJDP Project Coordinator and the Rural Jail Administrator will develop and implement regulations governing detention of youth in adult jails under authority provided in AS 47.10.180(a). Included in these regulations will be limitations on the time youth may be held in adult jail facilities to comply with the intent of the JJDP Act. Implementation of such regulations will substantially reduce the number of youth held in adult jails longer than the six hours allowed under JJDP Act regulations.

10. In March, 1988, the Director will prepare a Request For Proposals to educate the general public through a Statewide media campaign about the appropriateness of using alternatives to detention for youth. In April, 1988, a contractor will be selected. Following the assignment of the contract, the JJDP Project Coordinator will assist and monitor

the grantee.

11. Part of the JJDP Project Coordinator's duties will be to develop an educational training presentation. This presentation will address handling youth at time of arrest, issues of detention, detention alternatives, release, state law and JJDP requirements. This will be presented to the Alaska Police Standards Council following the Youth Corrections Administrator's review in March 1988. Contingent on the Council's approval, the JJDP Project Coordinator will provide the training for the State Training Academy. The Academy is responsible for statewide training of recruits from the state troopers, Village Public Safety Officers and many municipal police officers.

12. The final component of the 1987 Revised Jail Removal Plan is to request waivers from OJJDP for Alaska in meeting jail removal requirements for:

    A. Youth charged with offenses handled through the original jurisdiction of the District Court. This Court and not the Superior Court has original jurisdiction over traffic, DWI, fish and game, and parks and recreational offenses committed by minors. These violations are legislatively excluded from the juvenile court process;

    B. Youth detained under the State's Uniform Alcohol Act Protective Custody statute which does not come under the Court's jurisdiction; and

    C. Secure holding facilities in areas with a population of less than 2,000.

Conclusion

The Division of Family and Youth Services is committed to the removal of youth from Alaska's jails. By impacting the Public Safety contracts, educating the rural law enforcement officers, supporting the State Office of Alcohol and Drug Abuse in the development of reception centers and developing alternatives to detention in selected areas, we can begin to tackle the jail removal problems throughout our state. Alaska's 1988-1990 OJJDP plan will continue to address these issues.

PART 7

THREE YEAR PLAN

(Appendix G, 1987 Formula Grant Application)

APPENDIX G

Three Year Plan

1. Analysis of Juvenile Crime Problems and Juvenile Justice Needs.

a. Structure and Function of Juvenile Justice System

(1) The structure and functional operation of Alaska's juvenile justice system remains as it was described in prior grant applications. Children's proceedings, including delinquency matters, come within the jurisdiction of the Superior Court. The intake function is performed statewide by an executive branch agency, the Division of Family and Youth Services (DFYS), Department of Health and Social Services. This agency also provides all probation, youth detention, institutional treatment, and aftercare services to delinquent youth. The Superior Court has original jurisdiction of traffic, fish and game and parks and recreational offenses committed by persons of any age, although these offenses are normally heard by the District Court. In areas where no youth detention facilities exist State statutes permit youth to be detained temporarily in locally operated jails with sight and sound separation. Accused and adjudicated status offenders may not be detained in either youth detention facilities or local adult jails.

Alaska law doesn't really have a category of offenses called status offenses. Running away specifically is not a violation of law. Similarly, incorrigibility is not defined as an offense. Both may be the basis of a Child in Need of Aid adjudication. Youth under age 21 who are charged with alcohol violations are subject to court action since under Alaska State law these violations constitute Class A misdemeanors. Under the JJDP Act and its regulations definitions alcohol offenses are designated "status offenses." Truancy and exceeding municipal curfews are "violations" which do not qualify as crimes and cannot lead to delinquency adjudications.

(2) System Flow

Referral to intake follows arrest by any local police agency, the Alaska State Troopers, or a Village Public Safety Officer, an official found only in small rural villages which lack municipal police powers. A Village Public Safety Officer (VPSO) is a local employee, specially trained in various aspects of public safety including police and fire protection, who has limited police powers delegated by the Alaska Department of Public Safety.

Intake may result in dismissal, diversion to community based services, or the filing of a petition alleging delinquency by a DFYS probation officer. If adjudicated delinquent, a youth may be: (1) placed on probation for up to two years with no change in legal custody and physical placement in his own home; (2) placed on probation with custody assigned to DFYS and placement in a foster home or community-based residential facility, or (3) assigned to DFYS custody for institutional placement and treatment.

(a) Juvenile Arrests by Type, Sex and Race

Approximately 69% of the youths arrested are Caucasian, 26% are Alaskan Native, 5% are Black and less than 1% of youth are of other races or ethnic origin. Female youth account for 26% of arrests and male youth account for 74% of arrests for youth crime.

Youth arrests rose slightly in Alaska in 1986, from 4,900 in 1985 to 5,545 in 1986. Part I arrests constituted 47% of total youth arrests in 1986 compared to 40% in 1985. Youth arrests for violent crimes (murder, rape, manslaughter, robbery, aggravated assault) increased to 99 offenses in 1986 from 95 offenses in 1985.

(b) Number of Delinquent and Status Offenders Admitted to Secure Facilities

In 1986 there were 2,343 delinquent youth admitted to juvenile detention facilities and adult jails and lockups compared to 113 status offenders, primarily alcohol violators, detained in the same facilities.

(c) Number and Characteristics of Juveniles Arrested and Preferred to Probation Intake Units

In 1986 there were 6,369 referrals to Youth Probation Intake Units statewide. Not all referrals were the result of arrests although the vast majority were. The Department of Public Safety's 1986 Uniform Crime Report indicates that 5,545 youth were arrested. This information is depicted by offense, age and sex in the attached excerpt from "Crime in Alaska 1986" (Attachment I) .

(d) Number of Cases Handled Informally and Formally

In 1986 nearly 88% of the 6,369 annual intake referrals were diverted from the formal justice system. Roughly 10% were adjudicated delinquent. Of the youth who were adjudicated, nearly 97% were placed on probation, and about 2% of adjudicated youth were institutionalized. Waivers to adult jurisdiction and dismissals account for the remaining 1% of referrals.

(3) Data Analysis

The last detailed analysis of juvenile crime in Alaska was conducted in 1987 using 1986 data. Part I crimes are defined as violent crimes and property crimes such as criminal homicide, forcible rape, robbery, aggravated assault, burglary, larceny/theft and motor vehicle theft. The total 2,658 statewide Part I arrests increased slightly during 1986, while the percentage of total Part I arrests attributed to youth increased to 47% in 1986 compared to 40% in 1985. Also, youth arrests for violent crimes (murder, rape, manslaughter, robbery, aggravated assault) increased to 99 offenses

in 1986 from 95 offenses in 1985. Arrests for violent Part I crimes accounted for only 1% of all juvenile arrests.

In general, over the nine year period, 1977 through 1986, youth crime has consisted primarily of property crime (46% of arrests), liquor law violations (19%), other status offenses excluding alcohol offenses (5%), and Part II crimes (30%). Arrests for violent Part I crime made up less than 1% of youth arrests.

Overall, youth crime, as measured by arrests, has shown a consistent decrease in Alaska during 1981-86 despite an increase in the youth population of nearly 20%. Accordingly, the rate of youth arrests declined 13% from 430 per 10,000 in 1981 to 376 per 10,000 in 1986. The rate of arrests for violent Part I crimes rose from 6.4 per 10,000 in 1981 to 7.9 per 10,000 youth in 1982. The rate of arrests for Part I offenses declined steadily after 1982, reaching 5.8 per 10,000 youth in 1986.

Larceny/theft led to the largest number and percentage of youth arrests in Alaska from 1977 to 1986. Arrests for these offenses averaged 1,948 arrests or 35% annually. Liquor law violations, excluding DWI's, averaged 1,071 arrests or 19% per year. While liquor law violations alone consistently account for 19 to 25% of youth arrests, alcohol use is indicated in many other youth arrests. This is particularly true in rural areas where records indicate that the majority of youth detentions have been for liquor law violations. Many secondary charges are also alcohol violations when multiple charges are recorded.

Preliminary analysis of 1987 data shows no significant variation from previous data except for a slight decline in intake referrals in a number of communities. Statewide, this decline totalled 3% and may be attributable in part to a decline in Alaska's population.

Alaska's child physical and sexual abuse and child neglect rate per 1,000 children in 1985 was 47.27, the fourth highest among all states and more than 50% above the national rate of 30.6. Alaska's child physical and sexual abuse and child neglect rates have historically been higher than national averages. Alaska's unemployment rate in 1986 for youth ages 16-19 was 19.8% while the national average was 18.3%. In 1984, Alaska's birth rate among teenagers age 13-19 was 40 births per 1000 females. Teenage births accounted for 1205 or 17.5% of all births. These factors, coupled with isolation, a severe climate, high incidences of substance abuse and high divorce rates contribute to Alaska's delinquency rate.

(4) Service Network

The State Office of Alcoholism and Drug Abuse funds substance abuse prevention programs for youth. These programs are concentrated in public school curriculua and educate youth primarily about potentially harmful effects of substances and how to overcome peer pressure. Some funding is directed into teen centers to provide

recreational activities for youth. The State Office of Alcoholism and Drug Abuse utilized 6.1% or $615,000 of its $10 million grant services budget for this purpose.

Some municipal police departments have an officer assigned to school districts and their primary duty is to provide intervention, prevention and education to students regarding crime and victimization. The Federal Job Training Partnership Program assists youth in securing and maintaining employment. Native corporations throughout the state have programs which offer counseling, job training and recreational activities specifically for youth.

Product:

b. Problem Statement

(1) & (2) Delinquency declined overall in Alaska between 1977 and 1986 despite an increase in the youth population. Violent crime has remained at essentially the same level (1.5% - 2.5%) since 1977 and is presently 17% below the historic high. Significantly, violent crime increased by only four offenses, totalling 99 in 1986 compared to 95 in 1985, and remains a very small part of youth crime in Alaska. The primary youth crime problems in both total numbers and percentage are minor property crimes and liquor law violations.

The continuation of high levels of alcohol related arrests and detention of youth in rural areas has occurred despite substantial state alcohol prevention and treatment efforts. This has also continued despite the fact that many rural communities have prohibited the sale or importation of alcohol into their communities. Prevention, treatment, and exclusion efforts have failed to substantially reduce the number of alcohol related detentions in rural areas.

In many areas youth are held in jail as a protective measure because of the life threatening nature of exposure of an intoxicated youth to the harsh conditions of an Alaskan winter. In addition, a highly intoxicated youth can be extremely violent and combative and pose a threat to the safety of the community. Without appropriate local options or resources, the only alternative for providing safety to the youth and the community has traditionally been to place youth in local jails or lockups.

Also, in urban areas of Alaska, particularly in Southeast Alaska, community pressure has led to a high number of youth detentions for alcohol-related offenses. This has occurred even in state operated juvenile detention centers. The practice was halted, however, in December, 1987, through administrative action when the Youth Corrections Statewide Administrator issued a directive prohibiting admission of youth charged only with minor consuming into state-operated youth detention facilities.

2. Three Year Program Plan - Descriptions of programs to be supported with JJDP formula grant funds:

a. State Program Designator - ALT

b. Title - Alternatives to Detention

c. Standard Program Area - 07

d. Program Problem Statement -
Analysis of 1986 data indicated that 398 youth were detained for more than 6 hours in adult jails in Alaska in 1986. Historically, the vast majority of youth are detained for relatively minor offenses, property misdemeanors, alcohol offenses and lower level property felonies. Many are held in jail as a protective measure because of the life-threatening nature of exposure of even a mildly intoxicated youth to the harsh conditions of an Alaskan winter. Few are detained for serious crimes against persons, and fewer still are detained for a significant period following court review. Most could be diverted from detention if appropriate alternatives existed.

Alaska's primary problem is detaining youth in adult jails. This is almost exclusively a rural problem. Construction of separate youth detention facilities in rural areas is not economically feasible given the number of such facilities which would be required. The enormous costs of construction and operation of facilities in bush Alaska and recent dramatic declines in state government revenues prohibits building separate youth facilities. Unfortunately, the small and widely scattered population in rural areas of the state also makes the provision of traditional social and justice services extremely expensive. These factors severely limit the development of service systems or structures which would provide most commonly utilized alternatives to detention.

The State of Alaska has attempted to address the problem of detention of youth in adult jails through construction of a system of regional youth detention facilities, transfer of full responsibility for the intake function to the Division of Family and Youth Services and implementation of uniform intake and detention criteria. However, these efforts have not been as effective as is necessary. Additionally, budget constraints have resulted in closure or inability to open some regional youth facilities, and the layoff of probation/intake staff who perform detention screening functions in rural areas. Due to these lay-offs many municipal police and Village Public Safety Officers have performed their own detention screenings. Even program and service development efforts targeting rural communities have had insufficient effect in reducing the number of youth detained in adult jails because traditional service models which did not address the unique circumstance of rural Alaska were employed.

e. Program Goals

The primary aim of this program is to bring Alaska into compliance with the jail removal, separation and deinstitutionalization initiatives of the JJDP Act by reducing the use of secure detention for status offenders and reducing the number of youth held in jails/lockups. This will be accomplished by:

(1) Adding a full-time staff person whose primary job duty is planning for day to day administrative activities necessary to bring Alaska into JJDP compliance;

(2) Using JJDP grant funds with state and municipal funds to target specific communities and create alternatives to detention, including:

(a) A secure holdover attendant care model,

(b) Attendant Care Shelters;

(c) 24 hour screening; and

(d) Transportation alternatives.

(3) Achieving greater utilization of present emergency shelter residential care capacity as an alternative to detention;

(4) Promoting the development of reception centers for intoxicated youth and increasing admission of these youth into existing centers by working jointly with the State Office of Alcoholism and Drug Abuse;

(5) Seeking funding for the Department of Public Safety to construct cell areas in several rural jails which would allow these facilities to meet separation requirements of State law and JJDP guidelines;

(6) Launching an education and training campaign to inform the public of the problems inherent in inappropriate detention of youth and of the availability of effective alternatives to detention; and

(7) Prohibiting admittance of youth into state youth correctional centers solely for intoxication alcohol offenses, except when those youth meet the conditions for Protective Custody pursuant to Alaska Statute 47.37.170, which requires a physicians statement certifying life threatening incapacitation as a requirement for admission.

(8) Enlisting Executive branch support for the Division to develop and enforce regulations under the authority granted the Department by Alaska Statute 47.10.180 (a) which prohibits mixing juveniles with adult prisoners unless they are totally separate.

f. Program Objectives

The overriding objective of this program is to reduce the number of youth detained in adult jails to achieve full compliance with Section 224 (a)(14). Alaska plans to accomplish this by utilizing alternatives to detention. The numerical objective for this application period is an additional 80% reduction from the baseline of 766 youth held during 1980. This would be a reduction of 615 youth held, and if added to the 151 reduction achieved through December 31, 1986, would bring Alaska into full compliance with Section 223(a)(14) of the JJDP Act. The final objective is to reduce the number of youth held in adult jails to

achieve full compliance. This numerical comparison is not very meaningful since Alaska's established baseline number did not include all 22 facilities. Additionally, up until November 1987, Alaska was unaware that youth charged with alcohol violations could not be detained, despite State Law, since under the JJDP Act such offenses are status offenses.

g. Summary of Activities Planned and Services Provided

The following planned activities will bring Alaska into full compliance with the deinstitutionalization, separation and jail removal requirements of the JJDP Act. The three year plan will continue to follow through with the initial planned activities.

The Division of Family and Youth Services has increased its level of commitment to this project as evidenced by placing a full-time JJDP Project Coordinator in the Division's Central Administration Office. The primary responsibility of the coordinator is to bring Alaska into jail removal, separation and deinstitutionalization compliance. The following administrators will provide direction and assistance in addition to having some responsibilities in JJDP planning implementation:

(1) The Division's Statewide Youth Corrections Administrator is the JJDP Project Coordinator's direct supervisor and is responsible for reviewing all of the JJDP Project Coordinator's Work.

The Social Services Program Coordinator will provide technical assistance and continue to facilitate the JJDP Advisory Board's activities.

The Grants Administrator will review, edit and approve all JJDP grants before submitting them to the Division Director and OJJDP. The Grants Administrator will review requests for proposals, facilitate proposal evaluation committees, award and monitor grants and contracts.

The Division Director has overall supervision and final approval for all Division plans and implementation efforts in achieving JJDP compliance.

The Deputy Commissioner of the Department of Health and Social Services oversees the Division and the Commissioner has the ultimate authority over the Division and the Department's effort in complying with the JJDP Act.

(2) The Division will use the allowable 7.5% of the JJDP award for FY 87 - FY 90 matching it with an equal amount of state dollars, for administrative costs. This match will contribute to the salaries of JJDP program staff and a computer will be purchased to provide for JJDP data compilation and analysis.

(3) In October 1987, the Division begun operation of 48-hour youth emergency detention services in Bethel and Nome. This will eliminate the practice of detaining youth from surrounding communities in adult jails.

(4) In December 1987, the Division Director restricted youth charged with minor consuming from admittance into state operated youth detention facilities. Only youth meeting the conditions for Protective Custody, pursuant to Alaska Statute 47.37.170, the State's Uniform Alcohol Act, which requires a physician's certificate for admission, can be admitted into detention, for up to 12 hours, unless another criminal offense is alleged or a court order required detention. The Youth Corrections Administrator has implemented this policy change in all state operated youth detention facilities.

(5) In December 1987, the JJDP Project Coordinator and the Youth Corrections Administrator met with the Director of the State Office of Alcoholism and Drug Abuse (SOADA). As a result of these negotiations the Director of SOADA has agreed to allow youth entry into planned reception centers to provide alcohol detoxification and treatment assessments.

SOADA is a separate office within the Department of Health and Social Services. This office was established by statute and is under the administrative direction of the Commissioner of Health and Social Services. SOADA is the primary state agency responsible for providing services to prevent and remedy alcohol and drug abuse. SOADA is not a direct services agency but rather provides services through grants to local governments and private organizations.

SOADA did not receive an anticipated budget increase of $2,410,000 in FY 89 to develop these centers but will attempt to secure this funding in FY 90. The JJDP Project Coordinator has and will continue to supply youth abuse and arrest rate statistics to SOADA. These statistics will provide an assessment of the level of need for emergency alcohol services and aid SOADA in efforts to secure funding for these centers. If funds are appropriated for the development of these twelve centers, the JJDP Project Coordinator and the Youth Corrections Administrator will work with SOADA to develop policy and procedures for admission of youth to reception centers. The twelve proposed areas targeted for reception centers will aid the Division in deinstitutionalizing youth who are charged with minor consuming.

(6) During the first quarter of state fiscal year 1989, the Division will develop alternatives to detention to reduce the number of youth offenders and status offenders being detained in adult secure facilities. Using JJDP grant monies, the Division will contract with local communities to develop Attendant Care Shelters. Historically, the six communities targeted for initial development, Barrow, Homer, Juneau, Kotzebue, Ketchikan, and Kodiak have had high numbers of non-compliant detentions. These communities were selected for initial development of Attendant Care Shelters on the basis of data collected for JJDP Monitoring Reports.

Grants will also be awarded during the first quarter of FY 89 to fund adjunctive services in certain communities, such as a transportation component in Ketchikan and 24-hour screening component in Homer. The JJDP Project Coordinator will prepare

Requests for Proposals which will be advertised by August, 1988. Awards will be made and projects underway by September 30, 1988. Ongoing administration of grants will be a joint responsibility of the Project Coordinator and Grant Administrator.

(7) Capital and operating monies are available to contract with the City for detention services in Ketchikan contingent upon the City Council's willingness to enter into a contract to provide these services. Meetings took place in 1987 and have continued through the summer of 1988, with the City Council, Youth Corrections Administrator and Southeast Regional Administrator to negotiate the development of a contract with the Department for the provision of emergency detention services when Attendant Care Shelter services are not appropriate. Through technical assistance funding, Community Research Associates will provide consultants and a Juvenile Justice Specialist from OJJDP to meet with representatives of Alaska's Department of Health and Social Services and the City Council in July 1988, and resolve issues related to the provision of emergency detention services. The Project Coordinator will draft a contract by September 1988, which will be offered to the City by October 1988. Upon finalization of the contract agreement the state will provide capital funds for renovation and development of separate emergency detention cells for juveniles during fall and winter of 1988 with an expectation that the City will begin operating detention services in February 1989. Provision of separate juvenile detention services in Ketchikan will eliminate completely the detention of youth at the adult corrections facility.

(8) In order to ensure that youth in Alaska's rural areas are detained in compliance with the JJDP Act, the Division will work with the State Contracted Jail and Rural Jail Administrators of the Alaska Department of Public Safety to ensure that these contracts provide for compliance with JJDP Act requirements. The following activities will be undertaken: (1) the JJDP Project Coordinator will develop specific language to include in jail contracts which satisfactorily defines circumstances and conditions of detention of youth in these facilities; (2) the Commissioner of the Department of Health and Social Services and Public Safety will meet during the third quarter of FY 89 to develop a memorandum of agreement formalizing the agreement to include language in jail contracts which ensures JJDP Act compliance; (3) The Project Coordinator will review proposed FY 90 jail contracts to determine that contract clauses contain conditions to satisfy JJDP requirements.

(9) During the first quarter of FY 89, the JJDP Project Coordinator will prepare a Request For Proposals to implement a statewide public education campaign concerning the dangers of jailing youth and the availability of effective alternatives to detention. Following proposal review and assignment of the contract by the Division's Grant Administrator, the JJDP Project Coordinator will assist and monitor the grantee.

(10) A law enforcement training package will be prepared by the Project Coordinator by the second quarter of state fiscal year 1989. This presentation will address handling youth at time of arrest, issues of detention, detention alternatives, release, state law and JJDP

requirements. Following internal review, this will be presented to the Alaska Police Standards Council for approval as part of the standard law enforcement training curriculum. Contingent on the Council's approval, the JJDP Project Coordinator will present the training at the State Training Academy in conformance with the Academy training schedule. The Academy provides required training for recruits from the Alaska State Troopers, Village Public Safety Officers and municipal police officers, airport police and parks police. The training schedules vary but roughly the Alaska State Troopers attend thirteen weeks of training once a year on an as needed basis. Village Public Safety Officers usually have two six-week training classes that begin in February. Municipal police usually schedule two nine-week training sessions each year beginning in August.

(11) A budget increment for state fiscal year 1990, will be developed by the Project Coordinator during the first quarter of the state fiscal year 1989. The increment would provide funding for a Regulations Specialist position to assist the Project Coordinator in the promulgation of regulations governing the conditions under which juveniles may be held in adult facilities. Inclusion of this increment in the final agency budget will require approval at the Division and Department level and by Alaska's Office of Management and Budget. Activities to be accomplished include: 1) development of initial increment request by Project Coordinator, July 1988; 2) review and approval by Division management, August 1988; 3) review of proposed increments at Department level; 4) review and approval by the Office of Management and Budget and Governor for inclusion in Govern's FY 90 Budget Request; 5) review and approval by Alaska's Sixteenth Legislature during their 1989 session; The position can be partially funded with unexpended FY 87 and FY 88 JJDP formula grant "Planning and Administration" fund allocations.

(12) A contract will be awarded by the end of the first quarter of state fiscal year 1989 to improve and formalize Alaska's current system of monitoring for compliance with the JJDP Act. Activities necessary to accomplish this include: 1) development of an RFP by Project Coordinator, July-August 1988; 2) advertisement of the RFP, August, 1988; and 3) bid review and award, September 1988. (Please see section J and 6 of this plan for additional monitoring information).

h. Budget

Total of $1,113,408 in federal funds from JJDP allocations will be used for this plan. This total includes transfer of unexpended FY 86 funds previously planned for use in the Rural Youth Services Model, unexpended FY 86 funds which could not be used for the Restitution and Community Service program, and anticipated federal funds for FY 87 - FY 90.

The Alternatives to Detention Program is a more fully developed evolution of the Rural Youth Services Model program and represents a continuation of that program with more precisely defined objectives.

JJDP Funds		State/Local/Private Funds	
FFY = Federal Fiscal Year		SFY = State Fiscal Year	
FFY 86	$213,408.34 (Balance)		
FFY 87	225,000.00	FFY 87	16,875
FFY 88	225,000.00	FFY 88	16,875 SFY 89
FFY 89	225,000.00	FFY 89	16,875 SFY 90
FFY 90	225,000.00	FFY 90	16,875 SFY 91
Total	$1,113,408.34	Total	$217,500

Grant Type	Location	Amount	Period	FFY
Attendant Care Shelters	Barrow	$50,000	9/30/88-9/30/89	FY 86, 87
	Kotzebue	$50,000	" "	"
	Homer	$40,000		
	Kodiak	$40,000		
	Juneau	$40,000		
	Ketchikan	$40,000		
Monitoring Contract	Statewide	$50,000	9/30/88-9/30/91	FY 86-90
Public Education Campaign	Statewide	$50,000	" "	"
Transportation Component	Ketchikan	$10,000	" "	"
24-hr. Screening	Homer	$10,000	" "	"
Alternatives to Detention	Barrow	$40,000	10/1/89-9/30/91	Fy 88-90
	Kotzebue	$40,000	" "	"
	Homer	$30,000		
	Kodiak	$30,000		
	Juneau	$30,000		
	Ketchikan	$30,000		

Using FY 86 - FY 87 unexpended funds allocations for Attendant Care Shelters grants total $260,000., for the six communities. This allocation is $60,000 higher than the same grants for FY 88 - FY 90 because start-up costs, equipment and supply costs are anticipated to be higher than continuing services. Allocations were lower for FY 88 - FY 90 since continuing services costs will be less, and purchased equipment and supplies from the preceeding years will be used. A small balance of unallocated funds will be used to supplement and expand the Alternatives to Detention program on an as needed basis.

1. Relationship to Similar Programs

The State of Alaska operates a Preventive Youth Services grant program which devotes nearly $1.5 million annually to prevention and remediation of child abuse/neglect and delinquency within the state. This program is administered by the Department of Health and Social Services, Division of Family and Youth Services, and thus has direct interface on the administrative level with the program provided with JJDP funds.

Individual programs operating with state funds are devoted to primary prevention efforts, but include secondary and tertiary prevention as well. Past JJDP funds were used in programs providing services targeted specifically at achieving the objectives of the JJDP Act, i.e., deinstitutionalization, separation and jail removal. The Preventative Grant program is broader in focus and provides a greater variety of services; anti-shoplifting, mental health counseling, abuse

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agencies. Implementation of this policy drastically reduced the number of status offenders and nonoffenders held in the state's youth correctional facilities. However, a significant problem remained in rural areas where municipalities continued detaining status offenders and nonoffenders in their municipal jail facilities.

To address this problem, executive agencies worked vigorously to achieve passage of House Bill 19 in 1985. This Bill amended existing law to clearly prohibit the detention of status offenders and nonoffenders in any adult jail or youth correctional facility. These changes virtually eliminated the detention of status offenders in adult jails. However, youth charged with alcohol consumption or possession, a class A misdemeanor under Alaska State law, continued to be detained in juvenile detention facilities. This practice was halted in December 1987, when an administrative policy directive was issued prohibiting such detentions except under extremely limited circumstances defined by law.

In combination, passage of House Bill 19, assumption by an executive agency of the juvenile court intake function, and the implementation of policies and procedures preventing status offenders, including those charged with minor consuming, and nonoffenders from being detained in youth facilities will allow Alaska to achieve full compliance with the deinstitutionalization requirement of the JJDP Act.

In Alaska a person under the age of 21 years old who consumes alcohol is charged with minor consuming pursuant to Alaska Statute 04.16.050. This constitutes a class A misdemeanor if committed by an adult, defined as a person 18 years or over. Alaska was only recently informed of an informal U.S. Attorney General memorandum which serves as the basis for a narrowing of the regulatory definition of delinquent offender under the JJDP Act. This narrower interpretation excludes from the definition youth who may be adjudicated delinquent under state law on the basis of a law violation if only a limited class of adults can also be convicted. Specifically, youth charged with consumption of alcohol are excluded and thus considered status offenders for JJDP monitoring purposes. Based on this interpretation, Alaska was not in compliance with the deinstitutionalization mandate of the JJDP Act. By counting minor consumers as status offenders, Alaska's 1986 monitoring data indicated that 113 status offenders were detained.

Based on this predicament, Alaska's Youth Corrections Administrator in December 1987, prohibited admission of youth charged with minor consuming into state operated youth detention facilities. Only youth meeting the conditions for Protective Custody pursuant to Alaska Statute 47.37.170, the State's Uniform Alcohol Act, will be admitted to detention in juvenile detention facilities unless another delinquent act is alleged. The Uniform Alcohol Act requires a lack of other alternatives and a physicians statement certifying life threatening incapacitation as a requirement for admission into a jail or detention facility. This policy change is operative in all state youth detention facilities. Since alcohol violators have historically accounted for 19-25% of youth arrested, a substantial decline should be reflected in the 1988 Monitoring Report. Through the development of the Alternatives To Detention Program, the six Attendant Care Shelters will provide alternatives for youth previously detained as minors consuming alcohol. Additionally, in December 1987, the JJDP Coordinator and the Youth Corrections Administrator met with the Director

of the State Office of Alcoholism and Drug Abuse (SOADA) and received a commitment from SOADA that youth meeting the conditions of the Protective Custody statute could access emergency alcohol services in twelve proposed reception centers throughout the state.

4. Separation of Juveniles and Incarcerated Adults Plan

Alaska has increased its commitment to achieving separation compliance under the JJDP Act as evidenced by hiring a full-time staff member to be responsible for Alaska's effort in achieving compliance with the JJDP Act. The activities which are initiated through the Alternatives to Detention Program such as the Attendant Care Shelters, Transportation and Detention Screening components will be monitored and expanded as needed throughout the three fiscal years FY 88-90.

Alaska law, like the JJDP Act prohibits regular contact between detained youth and adult prisoners. Alaska Statute 47.10.130 prohibits detention of youth in a facility which also houses adult prisoners, unless the youth are assigned to separate quarters and cannot communicate with or view adult prisoners. Full compliance with this law would also achieve full compliance with the separation requirements of the JJDP Act. Unfortunately, local police, Village Public Safety Officers, and Alaska State Troopers in rural communities continue to admit youth offenders to locally operated municipal jails because no other alternative exists. Almost all of these locally operated jails were constructed before passage of the law and were not designed to hold youth. The decision to detain in these facilities rests with the arresting officer. This differs from the situation with state operated youth detention facilities where a DFYS intake officer exercises control of detention admission. Efforts are made in these facilities to comply with the spirit of the law, but this is often impossible because of the limitations of the facilities. For example, in a small village where the local jail consists of two single cells side by side, sight separation can be achieved, but it is impossible to completely prevent youth detainees from hearing adult prisoners.

When youth and adult prisoners are approximately the same age, have been arrested for participating in the same offense and are closely related, rural law enforcement personnel and citizens of small communities find JJDP Act requirements and Alaska law superfluous and irrelevant.

Alaska faces a number of difficulties in achieving full compliance with the separation requirement of the JJDP Act and with state laws. Among these are:

1. Lack of a sufficient infrastructure in rural Alaska to provide suitable alternatives to detention in adult jails;

2. Costs of constructing either secure or non-secure alternative placements for youth who must be detained;

3. Lack of community-based service alternatives to detention and a lack of structures for providing services;

4. Inclement weather, geography and necessary reliance on air transportation often prevent the timely transportation of youth from small rural

communities to one of the State's few youth facilities. When detention cannot be avoided, youth are placed in jail facilities which do not meet sight and sound separation requirements; and

5. Lack of jurisdiction of youth arrested and detained for traffic offenses, driving under the influence, and fish and game violations which come under original jurisdiction of the adult criminal court. The state Youth Corrections agency has no direct way of controlling the conditions under which these youth are detained.

Alaska's plan for achieving full compliance with the separation requirement has several components. These are:

1. As of October 1987, construction and operation of a system of regional youth detention centers to reduce the need for holding youth in adult jails which do not meet separation requirements has been accomplished and a significant decline of youth being held in adult facilities will be reflected in the next monitoring report;

2. Development of regulations governing detention of youth in adult jails and lockups in FY 89, using the authority granted the Department by Alaska Statute 47.10.180(a); to be undertaken by Alaska's JJDP Coordinator, Regulations Specialist and Youth Corrections Administrator;

3. Contracting with the City of Ketchikan to provide for the detention of youth, under authority of Alaska Statute 47.10.180(b), with this contract requiring that such detentions meet separation requirements of both Alaska law and the JJDP Act;

4. Development of a law enforcement training presentation focusing on the proper handling of youth at arrest, issues of detention, detention alternatives, release, state law and JJDP requirements. Contingent on approval of the Alaska Police Standards Council the training will be incorporated into the curriculum of the State Public Safety Training Academy. This Academy provides mandatory initial and recertification training for all Village Public Safety Officers, State Troopers and all municipal police officer recruits, except for recruits of the Municipality of Anchorage which operates a separate training program.

5. During the first quarter of FY 89, two grant awards will be made; one to Ketchikan for a transportation component and a second to Homer for 24-hour detention screening services.

The most fundamental of these initiatives is the construction and operation of youth detention centers in each of the major regions of the state. Until 1981, there was only one facility in the state which provided detention for youth offenders exclusively. That facility is located in Anchorage, the state's largest city and provides detention services for youth occupying 586,400 square miles of Alaska. When it was necessary to detain a youth in any other place in the state, the youth was either held in an adult prison, jail, or lockup, or transported to Anchorage. Since 1981, the state has invested nearly $12 million in construction of regional facilities in Fairbanks, Juneau, Bethel, and Nome to provide detention and secure treatment for youth offenders. Up until the latter half of 1987,

monies were available only for the operation of facilities in Anchorage, Fairbanks, Juneau and Nome. Partial operating funds were granted which allowed Bethel in October of 1987, to begin operation of a 48 hour emergency detention program. This addresses a major problem in meeting the separation requirement because the city of Bethel has in recent years been the site of the greatest number of incidents of non-compliant detentions of youth. In addition a high non-compliant local jail was closed in Palmer, in June 1987. Youth from that area in need of detention are now transported to Anchorage for detention in a state operated juvenile facility.

The Department has adopted regulations governing the operation of facilities devoted solely to providing detention services for minors and operated exclusively by the Department. It has not, however, adopted regulations governing detention of youth in separate quarters of adult jails or juvenile detention facilities. This was due originally to the fact that Alaska's services for delinquent youth were a subordinate part of the state's adult correctional agency. The promulgation of regulations relating to detention of youth in facilities not operated by the state agency was assigned a low priority or was considered unnecessary. In recent years, following separation of services for youth from the adult corrections agency, there have been insufficient personnel and other resources needed to promulgate and enforce such regulations. Contingent on Executive Branch approval of additional personnel and fiscal support, the Division plans to promulgate and enforce such regulations. Identification of all areas in the state where youth are held in local jails and lockups was accomplished in December of 1987. Despite these continuing limitations, the JJDP Coordinator and Youth Services Administrator in December 1987, initiated contact with rural state contracted and municipal jail administrators. They will continue to work with them to adopt regulations governing the detention of youth in adult jails and to enforce these regulations as part of the annual monitoring efforts undertaken to meet the requirement for eligibility for the JJDP Act formula grant program.

5. Removing Juveniles From Adult Jails and Lockups Plan

Alaska's strategy for jail removal was revised in December 1987, and approved in January 1988, by OJJDP with some stipulations. Alaska's three-year plan will be a continuation of the December 1987, plan:

1. Devotion of increased staff time to achieving JJDP goals.

The Division of Family and Youth Services has increased its level of commitment to this project as evidenced by placing a full-time JJDP Project Coordinator in the Division's Central Administration Office. The primary responsibility of the coordinator is to bring Alaska into jail removal, separation and deinstitutionalization compliance. The following administrators will provide direction and assistance in addition to having some responsibilities in JJDP planning and implementation:

The Division's Statewide Youth Corrections Administrator is the JJDP Project Coordinator's direct supervisor and is responsible for reviewing all of the JJDP Project Coordinator's work.

The Social Services Program Coordinator will provide technical assistance and continue to facilitate the JJDP Advisory Board's activities.

The Grants Administrator will review, edit and approve all JJDP grants before submitting them to the Division Director and OJJDP. The Grants Administrator will review requests for proposals, facilitate proposal evaluation committees, award and monitor grants and contracts.

The Division Director has overall supervision and final approval for all Division plans and implementation efforts in achieving JJDP compliance.

The Deputy Commissioner of the Department of Health and Social Services oversees the Division of the Commissioner has the ultimate authority over the Division and the Department's effort in complying with the JJDP Act.

2. The Division will use the allowable 7.5% of the JJDP award, matching it with an equal amount of state dollars, for administrative costs.

3. In October 1987, the Division began operation of 48 hour youth emergency detention services in Bethel and Nome. This will eliminate the practice of detaining youth in surrounding communities in adult jails.

4. In December 1987, the Division Director restricted youth charged with minor consuming from admittance into state operated youth detention facilities. Only meeting the conditions for Protective Custody, pursuant to AS 47.37.170, the State's Uniform Alcohol Act which requires a physician's certificate for admission, can be allowed admittance into detention. The Youth Corrections Administrator has implemented this policy change in all state operated youth detention facilities.

5. In December 1987, the JJDP Project Coordinator and the Youth Corrections Administrator met with the Director and discussed how the State Office of Alcohol and Drug Abuse (SOADA) could provide emergency alcohol services to youth statewide. Based on this meeting, the JJDP Project Coordinator and the Youth Corrections Administrator met with the Director of SOADA.

   SOADA is a separate entity from the Division of Family and Youth Services. Administratively SOADA is part of the Department of Health and Social Services, and has the same Commissioner as DFYS. SOADA is appropriated monies by the Legislature and awards funds to non-profit agencies to provide alcohol and drug abuse treatment, education, prevention and intervention services to adults and youth statewide.

   As a result of the December meeting, the Director of SOADA agreed that youth meeting conditions of the Protective Custody statute could access emergency alcohol services in twelve proposed reception centers throughout the state. A reception center is a combination of detoxification beds and substance abuse assessment center.

   SOADA requested a budget increase of $2,410,000 for FY 89 to develop these centers and did not receive it, but will attempt to secure this funding in FY 90. The Commissioner will be working to secure this funding during the upcoming Legislative session which runs January through May 1989. The JJDP Project Coordinator has and will continue to supply youth alcohol abuse and arrest rate statistics to SOADA. These statistics will demonstrate the need for emergency alcohol services and aid the Commissioner in efforts to secure funding for these centers. If funds are appropriated for the development of these 12 centers, the JJDP Program Coordinator and the Youth

Corrections Administrator will work with SOADA in May 1989, to develop policy and procedures for reception centers in admitting youth. In June 1989, the Director, the Director of SOADA, and the Commissioner's Office will review and approve youth admission policy for the reception centers. The twelve proposed areas targeted for reception centers will aid the Division in deinstitutionalizing youth who are charged with minor consuming.

6. The Division will develop alternatives to detention to reduce the number of youth offenders and status offenders being detained in adult secure facilities. Using JJDP grant monies, the Division will contract with local communities to develop non-secure Attendant Care Shelter sites. The six areas targeted for development historically have had high numbers of non-compliant detentions. The Youth Corrections Administrator, the JJDP Project Coordinator and three Youth Corrections Regional Administrators have selected the following sites for the development of non-secure Attendant Care Shelters: Barrow, Homer, Juneau, Kotzebue, Ketchikan, and Kodiak. Additionally, Ketchikan is targeted for the development of a transportation component and Homer for a 24-hour screening component.

   The JJDP Project Coordinator will develop Requests For Proposals (RFP) for development of the transportation component in Ketchikan, 24-hour screening component in Homer and the six non-secure Attendant Care Shelters. Proposals will be solicited in July 1988, and grants will be awarded by the end of September. The JJDP Project Coordinator will assist and monitor the grantees.

7. In order to ensure that youth in Alaska's rural areas are detained in compliance with the JJDP Act, the Division will work with the Department of Public Safety's State Contracted Jail and Rural Jail Administrators to add specific language to Public Safety contracts.

   During the third quarter of FY 89, the Commissioners of the Department of Health and Social Services and Public Safety will meet to review and confirm the contract additions for the FY 90 contracts with rural jails and Native Corporations. The new clauses will ensure that requirements of the JJDP Act are satisfied.

8. The State Contract Rural Jail Administrator for the Department of Public Safety requested $373,000 for cell area construction during FY 89 but did not receive it and will request it again during the Sixteenth Legislature which begins in January 1989. This cell area construction allows youth to be out of sight and sound of the rest of the adult inmate population. The construction is targeted for adult rural jails which hold over eighteen youth annually.

   In January 1989, the JJDP Project Coordinator will meet with the Rural Jail Administrator to review the cell area construction plan and ensure compatibility with JJDP Act separation requirements. In February 1989, the Director and the Commissioner will advocate for the Department of Public Safety's budget appropriation before the legislature.

   In March 1989, the JJDP Project Coordinator and the Rural Jail Administrator will develop and implement regulations governing detention of youth in adult jails under authority provided in AS 47.10.180(a). Included

in these regulations will be limitations on the time youth may be held in adult jail facilities to comply with the intent of the JJDP Act. Implementation of such regulations will substantially reduce the number of youth held in adult jails longer than the six hours allowed under JJDP Act regulations.

9. During the first quarter of FY 89 the JJDP Project Coordinator will prepare a Request For Proposals to educate the general public through a Statewide media campaign about the appropriateness of using alternatives to detention for youth. In September 1988, a contractor will be selected. Following the assignment of the contract, the JJDP Project Coordinator will assist and monitor the grantee.

10. Part of the JJDP Project Coordinator's duties will be to develop an educational training presentation. This presentation will address handling youth at time of arrest, issues of detention, detention alternatives, release, state law and JJDP requirements. This will be presented to the Alaska Police Standards Council following the Youth Corrections Administrator's review in March, 1988. Contingent on the Council's approval, the JJDP Project Coordinator will provide the training for the State Training Academy. The Academy is responsible for statewide training of recruits from the state troopers, Village Public Safety Officers and many municipal police officers.

6. Facility/Compliance Monitoring Plan

When monitoring first began in Alaska in 1977, 19 sites were selected for monitoring. These sites were monitored annually by probation officers as a regular part of their job duties.

In December 1987, in preparation for this report, the Division has now re-identified the monitoring universe and has determined the locations of all statewide facilities which house youth.

These are:

24 non-secure residential youth facilities

5 state operated youth detention facilities

95 state and municipal adult lockups/jails which need to be classified

3 state operated adult correctional facilities:

Bethel, Mat-Su Pretrial, and Ketchikan

Through a monitoring contract and coordination between the JJDP Project Coordinator and DFYS licensing staff, periodic inspections of non-secure residential youth facilities will be performed, existing regulations followed and non-secure facilities will maintain their non-secure classification. All 24 non-secure residential youth facilities are currently regulated by the Division under authority of state statute which prohibits secure custody. The Division will also inspect, collect data and monitor our own state operated youth detention facilities.

DFYS will provide JJDP required monitoring and data collection services under contract and issue a solicitation for competitive bids in the first quarter of FY 89. The contractor will be responsible for classifying all state and municipal jails and lockups as such, pursuant to the JJDP Act, by on site visits, determining whether or not these facilities meet sight and sound separation requirements, and collecting juvenile booking data from each facility. The Division will develop written sight and sound separation criteria consistent with JJDP Act requirements to be used by the contractor. The monitoring system will be modeled after New Jersey's system. Additional responsibilities of the contractor are to turn over all information collected as a result of this contract and to monitor, collect, analyze and draft a monitoring report based on the JJDP Act guidelines. DFYS responsibility, specifically the JJDP Project Coordinator, is to oversee the grant, perform spot audits of contract compliance, facility monitoring and data collection. The final monitoring report will be prepared by the JJDP Project Coordinator who will review the contractor's draft report and check it for scientific statistical methods and technical accuracy.

DB/sk/tm/rkh

PART 8

1989 JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT COMPLIANCE MONITORING REPORT

State of Alaska

1989 JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT COMPLIANCE MONITORING REPORT

STATE OF ALASKA

Department of Health and Social Services

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STATE MONITORING REPORT

A. GENERAL INFORMATION.

1. NAME AND ADDRESS OF STATE MONITORING AGENCY.

Alaska Division of Family and Youth Services
P.O. Box H-05
Juneau, Alaska 99811-0630

2. CONTACT PERSON REGARDING STATE REPORT.

Name: Donna Schultz Phone #: (907) 465-2113

3. DOES THE STATE'S LEGISLATIVE DEFINITION OF CRIMINAL-TYPE OFFENDER, STATUS OFFENDER, OR NONOFFENDER DIFFER WITH THE OJJDP DEFINITION CONTAINED IN THE CURRENT OJJDP FORMULA GRANT REGULATION?

Alaska's definition of "delinquent minor" is congruent with the OJJDP definition of "criminal-type offender" contained in 28 CFR Part 31.304(g). Alaska's definition of "child in need of aid" encompasses both "status offenders" and "nonoffenders" as defined in 28 CFR Part 31.304(h) and (i). The relevant Alaska definitions are contained in AS 47.10.010 and AS 47.10.290.

Although Alaska's legislative definitions are consistent with those contained in the OJJDP Formula Grant Regulation, the OJJDP Office of General Counsel issued a Legal Opinion Letter dated August 30, 1979 interpreting Section 223(a)(12)(A) of the JJDP Act to require "that an alcohol offense that would be a crime only for a limited class of young adult persons must be classified as a status offense if committed by a juvenile." Because Alaska law defines possession or consumption of alcohol by persons under 21 years of age as a criminal offense (AS 04.16.050), on this point the state's definitions of "criminal-type offender" and "status offender" are inconsistent with the OJJDP interpretation.

Pursuant to OJJDP's interpretation of Section 223(a)(12)(A), juveniles accused of, or adjudicated delinquent for, possession or consumption of alcohol ("minor consuming alcohol" or "minor in possession of alcohol") have been defined as status offenders.

4. DURING THE STATE MONITORING EFFORT WAS THE FEDERAL DEFINITION OR STATE DEFINITION FOR CRIMINAL-TYPE OFFENDER, STATUS OFFENDER AND NONOFFENDER USED?

The federal definitions for criminal-type offender, status offender and nonoffender were used.

B. REMOVAL OF STATUS OFFENDERS AND NONOFFENDERS FROM SECURE DETENTION AND CORRECTIONAL FACILITIES.

1. BASELINE REPORTING PERIOD: Calendar year 1976

CURRENT REPORTING PERIOD: Calendar year 1989

2. NUMBER OF PUBLIC AND PRIVATE SECURE DETENTION AND CORRECTIONAL FACILITIES.

	TOTAL	PUBLIC	PRIVATE
Baseline Data	14	13	1
Current Data	111	111	0
Juvenile Detention Centers	5	5	0
Juvenile Holdover Facilities [1]	1	1	0
Juvenile Training Schools [2]	0	0	0
Adult Jails	17	17	0
Adult Correctional Facilities	2	2	0
Adult Lockups [3]	86	86	0

[1] For the 1989 monitoring report "Juvenile Holdover Facility" is a new designation used to identify a single secure facility used solely for the temporary detention of juveniles.

[2] Two facilities serve as both juvenile detention centers and juvenile training schools. Because all juveniles admitted to these facilities must be processed through the respective detention centers, separate monitoring of the training schools is unnecessary.

[3] Modifications to the 1988 universe of adult lockups for the 1989 report include four deletions, thirteen additions, and one facility placed on "hold" for 1989 monitoring, as it burned down and was re-built during the year.

3. NUMBER OF FACILITIES IN EACH CATEGORY REPORTING ADMISSION AND RELEASE DATA FOR JUVENILES TO THE STATE MONITORING AGENCY.

	TOTAL	PUBLIC	PRIVATE
Baseline Data	14	13	1
Current Data	63	63	0
Juvenile Detention Centers	5	5	0
Juvenile Holdover Facilities	1	1	0
Adult Jails	17	17	0
Adult Correctional Facilities	2	2	0
Adult Lockups	38	38	0

4. NUMBER OF FACILITIES IN EACH CATEGORY RECEIVING AN ON-SITE INSPECTION DURING THE CURRENT REPORTING PERIOD FOR THE PURPOSE OF VERIFYING SECTION 223(a)(12)(A) DATA.

	TOTAL	PUBLIC	PRIVATE
Current Data	46	46	0
Juvenile Detention Centers	2	2	0
Juvenile Holdover Facilities	1	1	0
Adult Jails	8	8	0
Adult Correctional Facilities	1	1	0
Adult Lockups	34	34	0

5. TOTAL NUMBER OF ACCUSED STATUS OFFENDERS AND NONOFFENDERS HELD FOR LONGER THAN 24 HOURS IN PUBLIC AND PRIVATE SECURE DETENTION AND CORRECTIONAL FACILITIES DURING THE REPORT PERIOD, EXCLUDING THOSE HELD PURSUANT TO A JUDICIAL DETERMINATION THAT THE JUVENILE VIOLATED A VALID COURT ORDER.

	TOTAL	PUBLIC	PRIVATE
Baseline Data [1]	485	485	0
Current Data	2	2	0
Juvenile Detention Centers	2	2	0
Adult Jails	0	0	0
Adult Correctional Facilities	0	0	0
Adult Lockups	0	0	0

[1] The monitoring report format for the baseline year did not distinguish between accused and adjudicated status offenders and nonoffenders. Baseline data for both accused and adjudicated status offenders and nonoffenders are included here.

6. TOTAL NUMBER OF ADJUDICATED STATUS OFFENDERS AND NONOFFENDERS HELD IN PUBLIC AND PRIVATE SECURE DETENTION AND CORRECTIONAL FACILITIES FOR ANY LENGTH OF TIME DURING THE REPORT PERIOD, EXCLUDING THOSE HELD PURSUANT TO A JUDICIAL DETERMINATION THAT THE JUVENILE VIOLATED A VALID COURT ORDER.

	TOTAL	PUBLIC	PRIVATE
Baseline Data [1]	n/a	n/a	n/a
Current Data	1	1	0
Juvenile Detention Centers	0	0	0
Adult Jails	1	1	0
Adult Correctional Facilities	0	0	0
Adult Lockups	0	0	0

[1] The monitoring report format for the baseline year did not distinguish between accused and adjudicated status offenders and nonoffenders. Baseline data for both accused and adjudicated status offenders and nonoffenders are included in item B5.

7. TOTAL NUMBER OF STATUS OFFENDERS HELD IN ANY SECURE DETENTION OR CORRECTIONAL FACILITY PURSUANT TO A JUDICIAL DETERMINATION THAT THE JUVENILE VIOLATED A VALID COURT ORDER.

	TOTAL	PUBLIC	PRIVATE
Baseline Data [1]	n/a	n/a	n/a
Current Data	2	2	0
Juvenile Detention Centers	2	2	0
Adult Jails	0	0	0
Adult Correctional Facilities	0	0	0
Adult Lockups	0	0	0

[1] Data for status offenders determined to have violated valid court orders were not included in the monitoring report format for the baseline year.

Has the State monitoring agency verified that the criteria for using this exclusion have been satisfied pursuant to the current OJJDP regulation?

Yes.

If yes, how was this verified (State law and/or judicial rules match the OJJDP regulatory criteria, or each case was individually verified through a check of court records)?

During 1989 in Alaska, two juvenile status offenders were securely detained pursuant to a judicial determination that the juveniles had violated valid court orders. For these two instances, photocopies of pertinent court records were obtained with the assistance of the Division of Family and Youth Services (DFYS) office handling each case. The documents were examined to ensure that the criteria for use of the valid court order exception were satisfied.

C. DE MINIMIS REQUEST.

1. CRITERION A -- THE EXTENT THAT NONCOMPLIANCE IS INSIGNIFICANT OR OF SLIGHT CONSEQUENCE.

Number of accused status offenders and nonoffenders held in excess of 24 hours and the number of adjudicated status offenders and nonoffenders held for any length of time in secure detention or secure correctional facilities.

Accused		Adjudicated		Total
2	+	1	=	3

Total juvenile population of the State under age 18 according to the most recent available U.S. Bureau of Census data or census projection.

166,294 juveniles

(Source: Alaska Population Overview: 1986 and Provisional 1987 Estimates, Alaska Department of Labor, Research and Analysis, August 1989)

If the data was projected to cover a 12-month period, provide the specific data used in making the projection and the statistical method used to project the data.

Accused		Adjudicated		Total
8	+	2	=	10

Statistical Method of Projection:

Four methods of statistical projection for missing and unknown detention data were employed in the analysis of 1989 juvenile detention data. These were: 1) projection of data for the purpose of covering twelve months of time in an instance when only six months of data were received; 2) projection of juvenile detention data from non-reporting adult lockups; 3) projection for length of detention for cases with missing time and/or date information; and 4) projection of the reason for detention for cases with unknown offense.

1. Projection for Complete Calendar Year:

Complete data for Calendar Year 1989 were available for all but one of the sixty-three secure facilities in Alaska reporting detention information. Projection of data to cover the full calendar year 1989 for the adult lockup in King Cove was accomplished by computing the proportion of the year for which data

from this facility were received (185 days/365 days = .5068), and weighting each instance of juvenile detention at King Cove by a factor equal to the reciprocal of that proportion. Thus, the 3 instances of juvenile detention at this facility were weighted by a factor of 1.973, providing an overall number of juvenile detentions equal to 5.92 at the King Cove facility. This weighting procedure assumes that instances of noncompliance at the King Cove lockup during the last six months of 1989 occurred at the same rate demonstrated in the data for the first six months.

2. Projection for Non-reporting Adult Lockups:

Data for the 48 adult lockups whose records were inadequate for monitoring purposes were projected by assigning a weight of 2.263 (the reciprocal of the proportion of all adult lockups represented by those included in the analysis) to each case of juvenile detention in the 38 adult lockups from which adequate data were obtained. To the extent that lockups from which adequate data were obtained are representative of all lockups in the monitoring universe, this method of projection is statistically valid.

Since all adult lockups which submitted adequate data were included in the analysis, random sampling of this group was not performed. It is believed that lockups which do not maintain adequate records are unlikely to detain more juveniles than those which do. Facilities which do not maintain adequate records probably fail to do so because they, in fact, detain very few individuals, either adults or juveniles. Any error in this method of projecting data for non-reporting lockups should therefore result in a higher number of noncompliant cases than actually occurred in these facilities.

3. Projection for Unknown Duration of Detention:

For a number of cases for which time information was inadequate, it was necessary to project data regarding the duration of detention. This projection affected twenty three instances with incomplete time data. Each projection was contingent on the type of offender status associated with each instance. Duration was unknown in four cases involving accused criminal-type offenders, in fifteen cases with adjudicated criminal-type offenders, in three instances involving accused status offenders, and in one case involving a nonoffender.

In projecting the length of detention for the three cases involving accused status offenders, the goal was to determine whether the 24-hour grace period had been exceeded. This was accomplished as follows: the proportion of cases in which detention extended beyond the 24-hour grace period was computed for all cases involving detention of status offenders and for which duration of detention was known. The three cases for which duration of detention could not be determined were each assigned

a weight of .0217, the overall known proportion of noncompliant instances involving the detention of accused status offenders.

In determining the appropriate weight to assign each of the four cases involving accused criminal-type offenders with insufficient time data, the proportions of cases in which detention extended beyond the 6-hour grace period was computed for all cases involving the detention of an accused criminal-type offender in adult jails, adult correctional centers, and adult lockups. The four cases were then alternately assigned weights of .508, .630, and .444, depending upon the type of adult facility in which they were recorded. Respectively, then, these weights represented the proportions of noncompliant instances among all cases involving detention of juveniles accused of criminal-type offenses for which sufficient data were available in adult jails, adult correctional facilities, and adult lockups.

The fifteen cases involving adjudicated criminal-type offenders for which duration of detention data were insufficient were all recorded in juvenile detention centers, where time limits are not imposed upon the handling of this category of adjudicated juveniles. Since length of detention was irrelevant in these cases, projections were not performed.

4. Projection for Unknown Offender Type:

It was also necessary to project type of offender information (i.e. criminal-type offender, status offender, nonoffender) for ten instances of juvenile detention in which the reason for detention was not adequately specified. In this situation several series of computations were required, contingent upon the type of facility from which the data were received. One of the instances of juvenile detention with insufficient offense information was recorded in a juvenile center, four were recorded in adult jails, and the remaining five were recorded in adult lockups.

First, in determining the total number of accused status offenders held over 24 hours (item B5), these cases were alternately assigned weights of .3263, .1039, and .3704, the respective proportions of status offenders among all instances of juvenile detention in adult jails, juvenile centers, and adult lockups for which type of offender was known. Second, in determining the number of adjudicated status offenders held for any length of time (item b6), these ten unknown offense cases were each alternately assigned weights of .0212, .0078, and .000, the respective proportions of known adjudicated status offenders among all juveniles detained in adult jails, juvenile centers, and adult lockups.

The cases with insufficient offense information were also weighted for the purposes of projecting the incidence of jail removal infractions. These calculations excluded the single

unknown case recorded at a juvenile center, since this type of facility is not affected by jail removal considerations. The remaining nine unknown offense cases were each alternately weighted three times - as accused criminal-type offenders, as adjudicated criminal-type offenders, and as status offenders. When the nine cases were projected to be detentions of accused criminal-type offenders, those recorded at adult jails were weighted at .5085 (the proportion of accused criminal-type offenders detained in adult jails for more than 6 hours among all known juvenile criminal-type offenders held) and those recorded at adult lockups were weighted at .4444 (likewise, the proportion of jail removal violations of this type that occurred in adult lockups).

Finally, in the same fashion, the nine cases with unknown offenses were also weighted for the purposes of projecting jail removal infractions involving adjudicated criminal-type offenders and status offenders. For each of these two offender classes, the nine cases were alternately weighted by the overall proportions of noncompliance in adult jails and adult lockups. For the purpose of projecting the number of adjudicated criminal-types held in adult jails, the missing cases originating in jails were assigned the weight of .1059. Since there were no jail removal violations involving adjudicated criminal-type offenders in village lockups, the five offense missing cases reported in lockups were projected to have a value of 0.00.

This weighting procedure - involving the four types of data projection described above - was implemented by assigning a weight equivalent to the <u>product</u> of the four weights to each case of juvenile detention. Because the product of the four weights was less than 1.00 for the majority of weighted cases, the projected number of noncompliant cases is smaller than the number of unweighted cases upon which it is based.

Calculation of status offender and nonoffender detention and correctional institutionalization rate per 100,000 population under age 18.

Status offenders and nonoffenders held (total)	=	3	(a)
Population under age 18	=	166,294	(b)
(a)/(b) = rate : 3/166,294	=	**1.8 per 100,000**	

2. CRITERION B -- THE EXTENT TO WHICH THE INSTANCES OF NONCOMPLIANCE WERE IN APPARENT VIOLATION OF STATE LAW OR ESTABLISHED EXECUTIVE OR JUDICIAL POLICY.

Despite efforts to eliminate detention of status offenders in Alaska, three noncompliant instances occurred in Alaska during 1989. Each of the noncompliant instances involved juveniles accused of or adjudicated delinquent for the possession or consumption of alcohol - a criminal offense when committed by any person under 21 years of age in Alaska. Additionally, the noncompliant case involving an adjudicated status offender occurred in an adult jail which did not provide adequate separation of juvenile and adult inmates. This case was therefore in violation of AS 47.10.130, which requires full separation.

Detention of children accused of minor consuming alcohol is now prohibited in DFYS facilities, except in accordance with AS 47.37.170, which provides for protective custody of persons who are incapacitated by alcohol. The two instances of noncompliant detention involving accused status offenders during 1989 occurred in DFYS juvenile detention centers, and both instances clearly violated the Division's policies.

3. CRITERION C -- THE EXTENT TO WHICH AN ACCEPTABLE PLAN HAS BEEN DEVELOPED.

a. Do the instances of noncompliance indicate a pattern or practice?

No. On three separate occasions at two juvenile centers and at one adult jail juveniles accused of or adjudicated delinquent for minor consuming alcohol were securely detained in violation of the deinstitutionalization requirement. Each of these juveniles was detained on the charge of minor consuming alcohol. The two cases reported in juvenile centers also involved the enforcement of Alaska's protective custody statute; both juveniles "sobered up" over the course of their detention.

These instances of noncompliance were isolated occurrences and, in one case, it was questioned whether the instance of noncompliance reported in the adult jail was truly a secure detention. In this case, because the juvenile was reported on the adult jail's booking log, the instance was assumed to represent a secure detention. However, jail officials claimed to have placed the juvenile in the booking area awaiting the juvenile probation officer's arrival, not in a secure cell.

b. Do the instances of noncompliance appear to be sanctioned or allowable by State law, established executive policy, or established judicial policy?

No. The noncompliant detention of an adjudicated status offender in an adult jail was inconsistent with AS 47.10.130, which requires adequate separation of juvenile and adult inmates. Both instances of noncompliant detention in the juvenile facilities were violative of an administrative policy implemented in December 1987 by the Youth Corrections Administrator. This policy restricts detention in DFYS facilities of juveniles charged with minor consuming alcohol.

c. Describe the State's plan to eliminate the noncompliant incidents within a reasonable time.

In December, 1987, the Division of Family and Youth Services (DFYS) instituted a policy change in its youth corrections facilities which nearly eliminated noncompliant detention in these facilities in its first year of implementation. The policy prohibits admission of youth charged solely with possession or consumption of alcohol except when they meet the conditions for protective custody as outlined in the state's Uniform Alcoholism and Intoxication Treatment Act (AS 47.36.170). Detention for protective custody under AS 47.37.170 is permitted only when all other viable options are unavailable. A physician's statement certifying the need for protective custody must also be obtained

prior to admittance. While the DFYS policy only pertains to the five facilities operated by the agency, this is the most effective means of accomplishing compliance with the JJDP mandate. These five facilities accounted for an estimated 82 percent of detentions of youth in 1989.

In addition to the change in executive policy, DFYS has reduced deinstitutionalization violations by establishing non-secure attendant care shelters in communities where noncompliant instances were historically most frequent. Development of the alternatives is a central component of Alaska's strategy to eliminate instances of noncompliance with the deinstitutionalization requirement of the JJDP Act. Thirteen such shelters are now in operation.

Another aspect of Alaska's plan entails an effort to change the legislative provisions which permit secure detention of juveniles charged with minor consuming alcohol. Reclassification of this offense as a violation or, alternatively, as a summons-only offense would remove any basis in state law for detention of juveniles accused of consuming alcohol except where it is consistent with the protective custody provisions of AS 47.37.170.

Finally, DFYS is working with all secure facilities to curtail record keeping practices which artificially inflate the number of reported noncompliant instances. Some facilities create a booking record for each person brought in by law enforcement officials, even if the person is not admitted into secure confinement. Because non-secure detention in an office or reception area is not in violation of the deinstitutionalization mandate, records which fail to distinguish between persons who are confined securely and those who are not contribute to faulty measurement.

There is also evidence to suggest that improper recording of offense information has produced over-counting of deinstitutionalization violations. At some facilities, only the most serious of multiple criminal charges is entered into the booking forms. When a juvenile is charged with minor consuming alcohol (a class A misdemeanor under Alaska law) in addition to disorderly conduct or some other class B misdemeanor, only the alcohol charge - the legally more serious offense - is recorded. This practice has resulted in erroneous classification of some juveniles as status offenders when they are, in fact, accused of other criminal behavior.

4. OUT OF STATE RUNAWAYS. 0

5. FEDERAL WARDS. 0

6. RECENTLY ENACTED CHANGE IN STATE LAW.

In May, 1988, the Alaska Legislature passed a bill specifying the conditions under which runaway juveniles may be detained. This legislation became effective in October, 1988, and was explicitly designed to comply with the deinstitutionalization requirement. The law specified that

> "[a] minor may be taken into emergency protective custody by a peace officer and placed into temporary detention in a juvenile detention home in the local community if there has been an order issued by a court under a finding of probable cause that (1) the minor is a runaway in willful violation of a valid court order..., (2) the minor's current situation poses a severe and imminent risk to the minor's life or safety, and (3) no reasonable placement alternative exists within the community." (AS 47.10.141)

The statute clearly forbids detention of a runaway juvenile "in a jail or secure facility other than a juvenile detention home" and limits the duration of any detention to 24 hours if no criminal-type offense is charged. This change has had a positive impact on the state's ability to achieve full compliance within a reasonable time.

A more recently enacted amendment to AS 47.10.160 requires that jails and other secure detention facilities operated by state and local agencies record and report to the Department of Health and Social Services all instances of juvenile detention. Enacted in June, 1990, and effective September, 1990, this statute requires facilities to use a standardized format in reporting juvenile admissions, and to report name, date of birth, the offense for which the minor was admitted, date and time admitted, date and time released, gender, and ethnic origin. In an effort to further reduce errors in record keeping, the statute also requires that - with the exception of release date and time - the records be prepared at the time of admission into secure confinement. Because this statute standardizes the report format and requires full reporting of juvenile detention, it is anticipated that its enactment will have a significant and positive impact on Alaska's deinstitutionalization efforts.

SECTION 223(a)(12)(B)

D. PROGRESS MADE IN ACHIEVING REMOVAL OF STATUS OFFENDERS AND NONOFFENDERS FROM SECURE DETENTION AND CORRECTIONAL FACILITIES.

1. PROVIDE A BRIEF SUMMARY OF THE PROGRESS MADE IN ACHIEVING THE REQUIREMENTS OF SECTION 223(a)(12)(A).

Alaska's progress in achieving the removal of status offenders and nonoffenders from secure detention has been excellent. In comparison with the 1976 baseline, when 485 status offenders were securely detained, there were no instances of noncompliance in 1989 involving juveniles who had not been accused of or adjudicated delinquent for possession or consumption of alcohol. This is a particularly remarkable achievement considering that the baseline number of noncompliant detentions excluded alcohol possession and consumption detentions.

Because Alaska's baseline data did not include violations involving minor consuming alcohol, it is impossible to accurately measure the state's progress in achieving the total removal from secure confinement of status offenders. It is noteworthy, however, that despite inclusion of these cases among deinstitutionalization violations and the addition of 97 secure detention and correctional facilities to the monitoring universe, the overall incidence of noncompliant detention of status offenders has been reduced by 99.4 percent since 1976. Noncompliant detention of status offenders has been reduced by 92.7 percent from 1987 levels and by 67 percent from 1988 levels.

2. NUMBER OF ACCUSED AND ADJUDICATED STATUS OFFENDERS AND NONOFFENDERS WHO ARE PLACED IN FACILITIES WHICH (A) ARE NOT NEAR THEIR HOME COMMUNITY; (B) ARE NOT THE LEAST RESTRICTIVE APPROPRIATE ALTERNATIVE; AND, (C) DO NOT PROVIDE THE SERVICES DESCRIBED IN THE DEFINITION OF COMMUNITY-BASED.

All 1989 violations of Section 223(a)(12)(A) involved placement in secure facilities. Because "community-based" refers to "a small, open group home or other suitable place..." (Section 103(1)), all three of status offenders were placed in facilities fitting the above criteria.

SECTION 223(a)(13)

E. SEPARATION OF JUVENILES AND ADULTS.

1. BASELINE REPORTING PERIOD: Calendar Year 1976

CURRENT REPORTING PERIOD: Calendar Year 1989

2. WHAT DATE HAD BEEN DESIGNATED BY THE STATE FOR ACHIEVING COMPLIANCE WITH THE SEPARATION REQUIREMENTS OF SECTION 223(a)(13)?

December 31, 1988

3. TOTAL NUMBER OF FACILITIES USED TO DETAIN OR CONFINE BOTH JUVENILE OFFENDERS AND ADULT CRIMINAL OFFENDERS DURING THE PAST TWELVE (12) MONTHS.

	TOTAL	PUBLIC	PRIVATE
Baseline Data	12	12	0
Current Data	47	47	0
Adult Jails	13	13	0
Adult Correctional Facilities	2	2	0
Adult Lockups*	32	32	0

* Includes projection for facilities not submitting data. (See Appendix I for data projection method).

4. NUMBER OF FACILITIES IN EACH CATEGORY RECEIVING AN ON-SITE INSPECTION DURING THE CURRENT REPORTING PERIOD TO CHECK THE PHYSICAL PLANT TO ENSURE ADEQUATE SEPARATION.

	TOTAL	PUBLIC	PRIVATE
Baseline Data	n/a	n/a	n/a
Current Data	43	43	0
Adult Jails	8	8	0
Adult Correctional Facilities	1	1	0
Adult Lockups	34	34	0

5. TOTAL NUMBER OF FACILITIES USED FOR THE SECURE DETENTION AND CONFINEMENT OF BOTH JUVENILE AND ADULT OFFENDERS WHICH DID NOT PROVIDE ADEQUATE SEPARATION OF JUVENILES AND ADULTS.

	TOTAL	PUBLIC	PRIVATE
Baseline Data	5	5	0
Current Data	45	45	0
Adult Jails	11	11	0
Adult Correctional Facilities	2	2	0
Adult Lockups*	32	32	0

* Includes projection for lockups not submitting data. (See Appendix I for data projection method).

6. TOTAL NUMBER OF JUVENILES NOT ADEQUATELY SEPARATED IN FACILITIES USED FOR THE SECURE DETENTION AND CONFINEMENT OF BOTH JUVENILE OFFENDERS AND ADULT CRIMINAL OFFENDERS DURING THE REPORT PERIOD.

	TOTAL	PUBLIC	PRIVATE
Baseline Data	824	824	0
Current Data	336	336	0
Adult Jails	211	211	0
Adult Correctional Facilities	46	46	0
Adult Lockups*	79	79	0

* Includes projection for lockups not submitting data. (See Appendix I for data projection method).

7. PROVIDE A BRIEF SUMMARY OF THE PROGRESS MADE IN ACHIEVING THE REQUIREMENTS OF SECTION 223(a)(13).

Alaska's efforts at reducing the number of juveniles detained in violation of the JJDP separation mandate have produced dramatic results. Since the 1976 baseline, when 824 cases of noncompliance were recorded, Alaska has achieved a 59.5 percent reduction in separation violations. Compared to Alaska's 1988 noncompliance levels, the current number of separation violations represents an additional 40.7 percent reduction.

This progress has been made in spite of the state's use of a significantly larger monitoring universe and a statewide juvenile population which is one-third higher than that in 1976. The continued effort at expanding the monitoring universe - from 14 facilities in the baseline year to 111 facilities in 1989 - has broadened the base from which noncompliance is measured, increasing the probability of measuring noncompliance.

Alaska law prohibits detention of any juvenile in a facility which also houses adult prisoners, "unless assigned to separate quarters so that the minor cannot communicate with or view adult prisoners convicted of, under arrest for, or charged with a crime" (AS 47.10.130). Despite this legislative prohibition, however, many adult facilities have continued to admit juveniles when no adequate alternative is available. Indeed, alternatives continue to be scarce except in the most populated Alaskan communities. The central - and persistent - barrier to achieving compliance with the separation mandate has been the vast geographical distances between Alaska's five youth detention centers.

Approximately 22 percent of the 1989 separation violations occurred in adult lockups, which represent 77 percent of all secure facilities in the state. The majority of lockups in Alaska's monitoring universe are located in geographically remote areas which lack the alternatives necessary for achieving success with separation requirements. In such areas, the timely transfer of juveniles to appropriate facilities has often been impossible due to unavailability of air transportation and inclement weather.

During 1989, the detention of juveniles adult jails constituted 58 percent of the separation violations in Alaska. The fairly sizable communities that support these jails are not necessarily more accessible than those with adult lockups. Of the seventeen contract adult jails in the state, only three - in Homer, Seward, and Valdez - are located on Alaska's highway system.

Although the problem with separation remains largely attributable to adult jails, it is with this type of facility that the largest gains have been made. Compared to the number of separation violations in adult jails in 1988, the current number of jail violations represents a 53 percent decline. The same is

true for the two adult correctional facilities that held juveniles during 1989: compared to the 1988 number of separation violations, violations recorded in these centers during 1989 represent a 27 percent drop.

Evidence from the booking logs of adult jails strongly suggests that the actual incidence of noncompliant juvenile detention in adult jails is significantly lower than that recorded. An artificial inflation of noncompliant juvenile detentions results from the practice of "logging in" each person brought to the facility by law enforcement officials, even if the person is not admitted into secure confinement. A juvenile who is made to wait for her parent or probation officer in the confines of a dispatch office does not constitute a separation violation or jail removal violation. Records which fail to distinguish between persons who are confined and those who are not contribute to erroneous measurements.

Illustrative of this practice and the impact it has on the monitoring results is the adult jail located in Petersburg, a small community in Southeast Alaska. The jail was visited on-site during the 1989 monitoring effort and the accuracy of all juvenile log entries was checked and verified. The Petersburg billing sheets sent by the jail to the Department of Public Safety recorded 14 incidents of juvenile "detention." Upon inspection and cross-referencing, however, it was established that in eight of the "detentions" the juveniles were not placed in secure confinement, but were instead made to wait in the reception area. Four of the remaining juvenile entries in Petersburg were clearly situations of secure confinement in the violation of the separation requirement and two entries were such that the occurrence secure confinement could not be established independent of the log. These instances were therefore assumed to be violations.

DFYS has continued to work with facilities in an effort to curtail record keeping practices which artificially inflate the number of reported instances of noncompliance. Revised billing sheets from the Department of Public Safety now include columns on the status of each person's confinement, allowing for clear distinction between those persons securely detained and those not. There is no monetary incentive for adult facilities to house juveniles, and entering juvenile admissions on billing sheets does not result in a cost reimbursement to the jails. Data on juvenile admissions compiled on the billing sheets are collected by DPS for statistical purposes only and are not associated with the primary cost reimbursement purpose of the forms. Most adult jails began using these forms by July, 1989, and the forms have already had a significant impact on the monitoring of noncompliant detentions.

DESCRIBE THE MECHANISM FOR ENFORCING THE STATE'S SEPARATION LAW.

Alaska has employed several mechanisms for enforcing its separation laws, AS 47.10.130 and AS 47.10.190. Together, these mechanisms have substantially reduced instances of noncompliance with Section 223(a)(13) of the JJDP Act.

DFYS has sought to maximize enforcement of the separation laws by instituting a program of public education to alert the law enforcement community and the public to the dangers in jailing juveniles and to the laws restricting such detention. The Division has sponsored public service announcements in print and broadcast media and has established thirteen non-secure attendant care shelter throughout the state. To date, four adult jails and an additional adult correctional facility have terminated the practice of detaining juveniles for any reason.

In addition to modifying the billing sheets used by the adult jails (previously discussed), the Alaska Department of Public Safety (DPS) also amended its contracts with the jails by removing any language which could be construed as authorizing admission of juveniles or providing for the purchase of such services by DPS. The amended contracts have eliminated any ambiguity about statutory or contractual authorization for noncompliant detention of juveniles. Thus, the contractual agreements between municipal jails and DPS now have the clear purpose of supporting the strict enforcement of Alaska's separation laws.

It is recognized that existing enforcement mechanisms can be improved and a plan has been developed to establish a more formal enforcement system. Under As 47.10.150 and AS 47.10.180, the Department of Health and Social Services has broad authority to promulgate and enforce regulations pertaining to confinement of juveniles. A staff person has been hired by the Division of Family and Youth Services to develop appropriate regulations and this person has begun the process of promulgating a set of enforceable standards designed to ensure adequate separation of juveniles and adult offenders.

SECTION 223(A)(14)

F. REMOVAL OF JUVENILES FROM ADULT JAILS AND LOCKUPS.

1. BASELINE REPORTING PERIOD: Calendar Year 1980

CURRENT REPORTING PERIOD: Calendar year 1989

2. NUMBER OF ADULT JAILS.

	Total	Public	Private
Baseline Data	15	15	0
Current Data*	17	17	0

* This total includes two facilities classified as adult correctional centers.

3. NUMBER OF ADULT LOCKUPS.

	Total	Public	Private
Baseline Data*	0	0	0
Current Data	86	86	0

* Adult lockups were not included in the monitoring universe for the baseline year.

4. NUMBER OF FACILITIES IN EACH CATEGORY RECEIVING AN ON-SITE INSPECTION DURING THE CURRENT REPORTING PERIOD FOR THE PURPOSE OF VERIFYING SECTION 223(a)(14) COMPLIANCE DATA.

	TOTAL	PUBLIC	PRIVATE
Current Data	43	43	0
Adult Jails	8	8	0
Adult Correctional Facilities	1	1	0
Adult Lockups	34	34	0

5. TOTAL NUMBER OF ADULT JAILS HOLDING JUVENILES DURING THE PAST TWELVE MONTHS.

	Total	Public	Private
Baseline Data*	14	14	0
Current Data**	15	15	0

* Includes data for three facilities classified as adult correctional facilities.

** Includes data for two facilities classified as adult correctional facilities. Fewer than 15 facilities held juveniles in violation of Section 223(A)(14).

6. TOTAL NUMBER OF ADULT LOCKUPS HOLDING JUVENILES DURING THE PAST TWELVE MONTHS.

	Total	Public	Private
Baseline Data*	n/a	n/a	n/a
Current Data**	32	32	0

* Adult lockups were not included in the monitoring universe for the baseline year.

** Includes projection for facilities not submitting data. (See Appendix I for data projection method). Does not represent the total number of lockups detaining juveniles in violation of Section 223(A)(14).

7. TOTAL NUMBER OF ACCUSED JUVENILE CRIMINAL-TYPE OFFENDERS HELD IN ADULT JAILS IN EXCESS OF SIX (6) HOURS.

	Total	Public	Private
Baseline Data*	766	766	0
Current Data**	82	82	0

* The monitoring report format for the baseline year did not distinguish between accused and adjudicated criminal-type offenders or between adult jails and adult correctional facilities. Both accused and adjudicated criminal-type offenders held in adult jails and adult correctional facilities (including juveniles accused of or adjudicated delinquent for minor consuming alcohol) are included in the baseline data reported here.

** Includes data for two facilities classified as adult correctional facilities. Current data for adjudicated criminal-type offenders are included in item F9. Current data for juveniles accused of or adjudicated delinquent for minor consuming alcohol are included in item F11.

8. TOTAL NUMBER OF ACCUSED JUVENILE CRIMINAL-TYPE OFFENDERS HELD IN ADULT LOCKUPS IN EXCESS OF SIX (6) HOURS.

	Total	Public	Private
Baseline Data*	n/a	n/a	n/a
Current Data	21	21	0

* Adult lockups were not included in the monitoring universe for the baseline year.

9. TOTAL NUMBER OF ADJUDICATED CRIMINAL-TYPE OFFENDERS HELD IN ADULT JAILS FOR ANY LENGTH OF TIME.

	Total	Public	Private
Baseline Data*	n/a	n/a	n/a
Current Data**	40	40	0

* The monitoring report format for the baseline year did not distinguish between accused and adjudicated criminal-type offenders or between adult jails and adult correctional facilities. Both accused and adjudicated criminal-type offenders held in adult jails and adult correctional facilities (including juveniles accused of or adjudicated delinquent for minor consuming alcohol) are included in the baseline data reported for item F7.

** Includes data for two facilities classified as adult correctional facilities. Current data for accused criminal-type offenders are included in item F7. Current data for juveniles accused of or adjudicated delinquent for minor consuming alcohol are included in item F11.

10. TOTAL NUMBER OF ADJUDICATED CRIMINAL-TYPE OFFENDERS HELD IN ADULT LOCKUPS FOR ANY LENGTH OF TIME.

	Total	Public	Private
Baseline Data*	n/a	n/a	n/a
Current Data	0	0	0

* Adult lockups were not included in the monitoring universe for the baseline year.

11. TOTAL NUMBER OF ACCUSED AND ADJUDICATED STATUS OFFENDERS AND NONOFFENDERS HELD IN ADULT JAILS FOR ANY LENGTH OF TIME, INCLUDING THOSE STATUS OFFENDERS ACCUSED OF OR ADJUDICATED FOR VIOLATION OF A VALID COURT ORDER.

	Total	Public	Private
Baseline Data*	98	98	0
Current Data**	80	80	0

* Includes data for three facilities classified as adult correctional facilities. Because juveniles charged with minor consuming alcohol were classified as criminal-type offenders in the baseline year, baseline data for juveniles accused of or adjudicated delinquent for this offense are included in item F7.

** Includes data for two facilities classified as adult correctional centers. Current data for juveniles accused of or adjudicated delinquent for minor consuming alcohol are included here.

12. TOTAL NUMBER OF ACCUSED AND ADJUDICATED STATUS OFFENDERS HELD IN ADULT LOCKUPS FOR ANY LENGTH OF TIME, INCLUDING THOSE STATUS OFFENDERS ACCUSED OF OR ADJUDICATED FOR VIOLATION OF A VALID COURT ORDER.

	Total	Public	Private
Baseline Data*	n/a	n/a	n/a
Current Data	26	26	0

* Adult lockups were not included in the monitoring universe for the baseline year.

13. TOTAL NUMBER OF ADULT JAILS AND LOCKUPS IN AREAS MEETING THE "REMOVAL EXCEPTION."

Baseline Data: 0

Current Data: 0

Alaska is ineligible for the removal exception because State law requires an initial court appearance within 48 hours, rather than 24 hours, after a juvenile has been taken into custody (see AS 47.10.140). All adult jails, lockups and correctional facilities in the 1989 monitoring universe are outside the state's only Standard Metropolitan Statistical Area, but only two provide adequate separation, as required in order for the removal exception to apply.

14. TOTAL NUMBER OF JUVENILES ACCUSED OF A CRIMINAL-TYPE OFFENSE WHO WERE HELD IN EXCESS OF SIX (6) HOURS BUT LESS THAN TWENTY-FOUR (24) HOURS IN ADULT JAILS AND LOCKUPS IN AREAS MEETING THE "REMOVAL EXCEPTIONS."

Baseline Data: 0

Current Data: 0

15. PROVIDE A BRIEF SUMMARY OF THE PROGRESS MADE IN ACHIEVING THE REQUIREMENTS OF SECTION 223(a)(14).

Four adult jails in Alaska - Haines, Kake, Seldovia, and Unalaska - reported no jail removal violations during 1989. The remaining 13 adult jails and the 2 adult correctional facilities produced a wide variety of noncompliant juvenile detentions, in number and in duration, if not in offense type. A total of 249 jail removal violations were reported in Alaska during 1989. This figure represents a 71.1 percent decline in the overall number of juveniles held in violation of the jail removal mandate since the baseline year 1980. Since 1988 alone, the 1989 data show a 38.9 percent decline.

In context - that is, in Alaska - this decline is quite substantial; the progress made toward compliance has been achieved in spite of the large increase in the numbers of facilities in the monitoring universe, in spite of record-keeping practices which work to artificially inflate the number of JJDP Act violations, in spite of the state's geographical vastness, and in spite of the large and difficult problem Alaska has with alcohol and its youth.

Alaska's progress in achieving compliance with 223(A)(14) have been offset by the inclusion of a large number of additional facilities into the state's monitoring universe. With each successive year, Alaska's monitoring universe has become more refined, more accurate and broader, currently encompassing 97 more facilities than in the 1980 baseline universe. As the universe has increased, so has the accuracy of the jail monitoring measurements, and this accuracy masks otherwise significant gains in compliance.

Progress in achieving compliance with jail removal has also been hampered by the slow pace at which refined methods of record keeping have been implemented. As mentioned elsewhere, evidence from the booking logs strongly suggests that the actual incidence of noncompliant juvenile detention (in adult jails in particular) is significantly lower than that recorded. In adult jails and correctional facilities during 1989, 50 percent of the 40 cases of jail removal noncompliance involving adjudicated criminal-type offenders lasted 2 hours or less. The durations of violations involving status and nonoffenders were similar in jails and DOC facilities, with 41 percent of the 80 cases having durations of 2 hours or less. These short periods of detention correlate strongly with claims of compliant response by jail administrators.

By June and July, 1989, each contract jail had begun using revised billing sheets which allow for clear distinction between those juveniles held in secure confinement and those who are not. Thus, the operational assumption that each log entry on a juvenile represents an instance of secure confinement, has adversely affected up to six months of the data contained in this report.

For 1990 detention data, it is expected that statewide detention data will be considerably more accurate and include relatively few instances of noncompliance.

Even with this weakness, however, the data remain telling, particularly about the problems that alcohol presents to Alaska. The vast majority of 1989 jail removal violations - whether status offenses or accused criminal offenses - involved the consumption or possession of alcohol, or alcohol intoxication. The criminal offenses for which the largest number of juveniles were accused and noncompliantly detained were driving while intoxicated and driving without valid license, and a large majority of juveniles held in noncompliant detention for status offenses were arrested on minor consuming alcohol, minor in possession, minor on premises, or were held in protective custody due to intoxication. There were only six noncompliant cases during 1989 involving curfew violations and nine cases involving runaways.

While barriers to full compliance with the jail removal requirement remain, Alaska has made great progress in reducing incidence of noncompliance and in offering alternatives to secure detention in adult facilities. A juvenile detention facility was opened in Bethel in October, 1987 and, by the end of 1989, a dozen non-secure attendant care shelters had become operational in communities where large numbers of violations had occurred in 1988. Since the beginning of 1990, three additional shelters have opened in the communities of Cordova, Dillingham, and Fairbanks.

Additional components of the state's strategy to achieve full compliance with the jail removal requirement have been outlined in the revised 1987 Jail Removal Plan. Collectively, these initiatives are expected to provide an effective means for Alaska to move rapidly toward full compliance with the jail removal requirement.

G. DE MINIMIS REQUEST: NUMERICAL

1. THE EXTENT THAT NONCOMPLIANCE IS INSIGNIFICANT OR OF SLIGHT CONSEQUENCE.

Number of accused juvenile criminal-type offenders in adult jails and lockups in excess of six (6) hours, adjudicated criminal-type offenders held in adult jails and lockups for any length of time, and status offenders held in adult jails and lockups for any length of time.

TOTAL = 249

Total juvenile population of the State under 18 according to the most recent available U.S. Bureau of Census data or census projection:

166,294 juveniles.

(Source: Alaska Population Overview: 1986 and Provisional 1987 Estimates, Alaska Department of Labor, Research and Analysis, 1989)

If the data was projected to cover a 12-month period, provide the specific data used in making the projection and the statistical method used to project the data.

Data:

Accused criminal-type offenders:	87	
Adjudicated criminal-type offenders:	40	
Accused and adjudicated status offenders:		89
Cases with inadequate offense data:	9	
Cases with inadequate time data:	2	

Total:227

Statistical Method of Projection:

Please refer to "Statistical Method of Projection" section pages 7-10.

Calculation of jail removal violations rate per 100,000 population under 18.

Total instances of noncompliance = 249 (a)
Population under 18 = 166,294 (b)

249 / 166,294 = 149.7 per 100,000

page revised

2. ACCEPTABLE PLAN.

The Division of Family and Youth Services (DFYS) is pursuing several ways to reduce noncompliant detention. The state's revised 1987 Jail Removal Plan, submitted in December 1987, includes a 12-point strategy for bringing Alaska into full compliance with the JJDP Act. That document describes several policy initiatives designed to reduce or eliminate noncompliant detention of juveniles.

Significant among these initiatives is the development and implementation of a network of nonsecure attendant care shelters - currently in thirteen communities which have experienced high levels of noncompliant juvenile detention.

A second initiative identified in the revised 1987 Jail Removal Plan has been achieved by implementation of a policy restricting detention of intoxicated juveniles at juvenile detention centers operated by DFYS. As in previous years, a high proportion of violations of the jail removal requirement during 1989 involved juveniles who were charged with minor consuming alcohol. Although the policy extends only to the five juvenile detention centers, it is expected to have a significant educative effect and, as such, to provide added impetus to efforts to reduce detention of such children in adult facilities as well.

Another important element of the state's plan to eliminate noncompliant detention is the creation of a full-time staff position in the Division of Family and Youth Services (DFYS) with responsibility for promulgating and enforcing regulations restricting detention of juveniles in adult facilities. The Department of Health and Social Services, which embodies DFYS, has broad authority under AS 47.10.150 and AS 47.10.180 for oversight of facilities used for detention of juveniles. Because of an absence of personnel, however, this regulatory authority had, until 1989, remained an unexploited resource in the state's efforts to achieve compliance with the mandates of the JJDP Act.

3. RECENTLY ENACTED CHANGE IN STATE LAW.

In May, 1988, the Alaska Legislature passed a bill specifying the conditions under which runaway juveniles may be detained. This legislation, which became effective in October, 1988, was explicitly designed to comply with the deinstitutionalization requirement of the JJDP Act, but it is also expected to aid efforts to bring the state into compliance with the jail removal mandate. The law specified that

> "[a] minor may be taken into emergency protective custody by a peace officer and placed into temporary detention in a juvenile detention home in the local community if there has been an order issued by a court under a finding of probable cause that (1) the minor is a runaway in willful violation of a valid court order..., (2) the minor's current situation poses a severe and imminent risk to the minor's life or safety, and (3) no reasonable placement alternative exists within the community." (AS 47.10.141)

The statute clearly forbids detention of a runaway juvenile "in a jail or secure facility other than a juvenile detention home" and limits the duration of such detention to 24 hours if no criminal-type offense is charged. This change has had a positive impact on the state's ability to achieve full compliance with the jail removal mandate.

A more recently enacted amendment to AS 47.10.160 requires that jails and other secure detention facilities operated by state and local agencies record and report to the Department of Health and Social Services all instances of juvenile detention. Enacted in June, 1990, and effective September, 1990, this statute requires facilities to use a standardized format in reporting juvenile admissions, and to report name, date of birth, the offense for which the minor was admitted, date and time admitted, date and time released, gender, and ethnic origin. In an effort to further reduce errors in record keeping, the statute also requires that - with the exception of release date and time - the records be prepared at the time of admission into secure confinement. Because this statute standardizes the report format and requires full reporting of juvenile detention, it is anticipated that its enactment will have a significant and positive impact on Alaska's compliance efforts.

H. DE MINIMIS REQUEST: SUBSTANTIVE.

1. THE EXTENT THAT NONCOMPLIANCE IS INSIGNIFICANT OR OF SLIGHT CONSEQUENCE.

a. Were all instances of noncompliance in violation of or departures from State law, court rule, or other statewide executive or judicial policy?

AS 47.10.130 provides that "(n)o minor under 18 years of age who is detained pending hearing may be incarcerated in a jail unless assigned to separate quarters so that the minor cannot communicate with or view adult prisoners convicted of, under arrest for, or charged with a crime." Of the 249 jail removal violations reported for 1989, only 26, or 10 percent, occurred in facilities that allow for sight and sound separation. Thus, 90 percent of the 1989 cases of juvenile detention in adult facilities - except those under circumstances consistent with the protective custody provisions of AS 47.37.170 - violated this statute.

There was no statutory authorization whatsoever for detaining status offenders and nonoffenders in any adult facility other than those accused of minor consuming alcohol. Therefore, the 15 instances of noncompliant detention of runaway juveniles and juveniles charged with curfew violations lacked any statutory authorization.

b. Do the instances of noncompliance indicate a pattern or practice, or do they constitute isolated instances?

Noncompliant detentions were recorded at thirteen adult jails, two correctional centers, and at just over one-third of adult lockups. At the majority of these facilities, however, instances of noncompliant detention appear to be the exception rather than the rule of juvenile handling. The projected 1989 data on jail removal violations indicate that 47 violations occurred in 32 of the 86 adult rural lockups statewide. That figure equates to an overall average number of .550 jail removal violations per lockup. Only five facilities (four jails, one correctional center) reported more than 15 instances of noncompliant detention, and, of these, only the adult jail in Barrow detained more than 30 juveniles in violation of the jail removal requirement.

c. Are existing mechanisms for enforcement of the State law, court rule, or other statewide executive or judicial policy such that the instances of noncompliance are unlikely to recur in the future?

Yes. The state has employed several mechanisms for enforcing AS 47.10.130, AS 47.10.141 and AS 47.10.190, all of which restrict the detention of juveniles in adult facilities. Collectively, these mechanisms have proven effective in substantially reducing instances of noncompliance with Section 223(a)(14) of the JJDP Act. The enforcement of these statutes, combined, with the operation of thirteen alternative nonsecure shelters, refined record-keeping instruments and practices, and amended service contracts between the Department of Public Safety and adult jails will effectively eliminate jail removal violations in Alaska.

To reiterate, DFYS is seeking to maximize enforcement of the laws referenced above by instituting a program of public education, including public service announcements in print and broadcast media, to alert both the law enforcement community and the public to the dangers and illegality of jailing juveniles. To date, five of the adult facilities which had accounted for high proportions of 1987 and 1988 violations terminated entirely the practice of detaining juveniles.

The amended contracts between the Department of Public Safety (DPS) and the seventeen municipal jails, now in use, further deter law enforcement officials from detaining juveniles in adult facilities by eliminating any ambiguity about compliant detention.

Enforcement of the state laws restricting juvenile detention is also enhanced by the DPS efforts to evaluate adherence by law enforcement officials to the contractual agreements and by the monitoring efforts of DFYS. Admission records for each municipal jail are scrutinized by DPS to identify any violations. These records are also examined each year by DFYS, and facilities are given notification of instances of noncompliant detention of juveniles. Further scrutiny of juvenile detention at adult jails is provided by personnel at non-secure attendant care shelters in 13 communities. Personnel at these shelters are required to notify DFYS of the number of juveniles detained in adult facilities in their communities and must therefore contact law enforcement officials to inquire about detention of juveniles. This provides another opportunity to reinforce the absence of authorization for noncompliant detention.

In combination, the above enforcement mechanisms have been effective in reducing the number of instances of noncompliance by 56 percent in the two years since implementation of the state's revised Jail Removal Plan in December, 1987. The 1990 statewide monitoring data, with few exceptions, will show the full benefit of the ten nonsecure attendant care shelters established during

1989. An additional three shelters were established in Dillingham, Fairbanks, and Cordova during 1990.

d. Describe the State's plan to eliminate the noncompliant incidents and to monitor the existing enforcement mechanisms.

Alaska's plan to eliminate noncompliant incidents is outlined in the revised 1987 Jail Removal Plan. Salient features of this plan include the following: (1) placing a full-time JJDP Project Coordinator in the Division's Central Administration Office; (2) development of alternatives to detention, including development of nonsecure holdover attendant care models in several rural communities and secure holdover attendant care models in others; (3) cooperative efforts with the Department of Public Safety on such issues as maintenance of appropriate booking data on juveniles, sight and sound separation requirements, the JJDP-mandated 6-hour rule and a prohibition of detention of status offenders; (4) launching an education and training campaign to inform the public of the problems inherent in inappropriate detention and jailing of youth and of the availability of effective alternatives; and (5) implementation of regulations governing detention of youth in adult jails under authority provided in Alaska Statutes 47.10.180(a), which authorizes the Department of Health and Social Services to adopt standards and regulations for the operation of juvenile detention homes and juvenile detention facilities in the state.

APPENDIX I: METHOD OF ANALYSIS.

All aspects of data analysis for the 1989 monitoring report were performed on the DEC/VAX 8800 mainframe computer at the University of Alaska Anchorage, using the SPSSx Data Analysis System, Release 3.0.

I. DATA COLLECTION AND DATA ENTRY.

Data were entered into a composite data file from the following sources:

A. Certified photocopies of original client billing sheets (booking logs) for the seventeen adult jails were obtained from Captain Roger McCoy, Contract Jail Administrator of the Alaska Department of Public Safety (DPS). DPS contracts for services with each Alaskan facility that meets the definition of adult jail as defined in the Formula Grant Regulation. Certified photocopies of booking logs from the King Cove Adult Lockup, dated July through December 1989, were also obtained from DPS.

B. Certified photocopies of original booking records were obtained from the Youth Centers in Anchorage, Bethel, Fairbanks and Nome, and from thirteen Adult Lockups in Chevak, Chignik, Delta Junction, Fort Yukon, Galena, Koyuk, Lower Kalskag, Nenana, Nightmute, Quinahagak, Tok, and Tuntutuliak.

C. Signed statements indicating that no individuals were detained in Adult Lockups during 1989 were obtained from the appropriate authority (Village Public Safety Officer, Village Police Officer, Alaska State Trooper, etc) in five villages, including Cold Bay, Golovin, Koyukuk, Mekoryuk, and Yakutat.

D. Certified photocopies of pages in a VPSO personal notebook containing adequate booking data were received from the village of Ekwok.

E. Adequate booking data were collected and verified on-site at the Adult Lockups in Anaktuvuk Pass, Angoon, Atkasuk, Deadhorse, Glennallen, Hoonah, Kaktovik (Barter Is.), Marshall, Nuiqsut, Pelican, Point Hope, Point Lay, Port Heiden, St. Marys, Selawik, Skagway, Toksook Bay, Wainwright and Whittier.

F. Determined to be inadequate for monitoring purposes were booking data collected on-site at the Adult Lockups in Hooper Bay, Kasigluk, Pilot Station and Scammon Bay. Also judged to be inadequate for monitoring purposes were

Adult Lockup data received from the villages of Mountain Village and Unalakleet.

For each case, the following data were entered: Facility type, facility identifier, initials or first initial and last name of juvenile, date of birth, gender, race, date of admission, time of admission, reason for detention (alphabetic variable; if more than one, reasons were strung together), date of release, time of release, and lockup indicator.

II. CLASSIFICATION OF OFFENDERS.

The likelihood of misclassifying of offenses was reduced by adopting a conservative approach. In other words, errors in coding would lead to the reporting of a higher number of violations than actually occurred. The following procedures were used in classifying juveniles as accused criminal-type offenders, adjudicated criminal-type offenders, accused status offenders and adjudicated status offenders:

A. Juveniles who were arrested for the following were classified as accused criminal-type offenders: offenses proscribed in Alaska criminal law, traffic violations, fish and game violations, failure to appear, and contempt of court.

B Juveniles charged with probation violations or violations of conditions of release were classified as adjudicated criminal-type offenders unless conditions of probation had been imposed pursuant to an adjudication for possession or consumption of alcohol. In the latter case, the juvenile was classified as an adjudicated status offender.

Juveniles taken into custody pursuant to warrants and detention orders were also classified as adjudicated criminal-type offenders, unless additional information indicated a more appropriate classification. Where reclassification was not indicated, all instances of detention pursuant to a warrant or court order at McLaughlin Youth Center, Fairbanks Youth Center, and the Nome Youth Center were verified through a check of facility records. In this way, accuracy in the classification of these cases was checked.

Juveniles transferred from one juvenile detention facility to another were also classified, absent additional information, as adjudicated criminal-type offenders, as were a small number of juveniles for whom the offense listed in official records was one of the

following: juvenile hold, juvenile probation hold, detention hold, and delinquent minor.

C. Juveniles detained for the following were classified as accused status offenders: possession or consumption of alcohol, minor on licensed premises, curfew violations, runaway, and protective custody in excess of the lawful duration as prescribed in AS 47.30.705 and AS 47.37.170.

D. DFYS officials constructed a list with the names and dates of birth of juveniles adjudicated for possession or consumption of alcohol on or after January 1, 1985. The list only included juveniles adjudicated solely for the possession or consumption of alcohol and who were not subsequently adjudicated on a criminal-type offense. Juveniles appearing in the 1989 data arrested pursuant to a warrant or detention order and juveniles detained for probation violations were classified as adjudicated status offenders if their names appeared on this list. Otherwise, these juveniles were classified as adjudicated criminal-type offenders.

E. Juveniles detained in adult facilities for protective custody under AS 47.30.705 or AS 47.37.170 (dealing with mental illness and alcohol intoxication, respectively) were counted as violations of the separation requirement. However, because juveniles and adults are accorded the same treatment under these statutes, these cases were determined to be outside the scope of the OJJDP definitions of criminal-type offender, status offender and nonoffender. Therefore, the presence of these juveniles in these facilities is not reflected in sections of this report pertaining to deinstitutionalization and jail removal requirements.

III. DATA PROJECTION.

Four methods of statistical projection for missing and unknown detention data were employed in the analysis of 1989 juvenile detention data. These were: 1) projection of data for the purpose of covering twelve months in an instance when only six months of data were received; 2) projection of juvenile detention data from non-reporting adult lockups; 3) projection of detention duration for cases of juvenile detention with missing time and/or date information; and 4) projection of the reason for detention of juvenile detention cases for which offense was unknown.

1. Projection for Complete Calendar Year:

Complete data for Calendar Year 1989 were available for all but one of the sixty-three secure facilities in Alaska reporting detention information. Projection of data to cover the full calendar year 1989 for one adult lockup facility in King Cove was accomplished by computing the proportion of the year for which data from this facility were received (185 days/365 days = .5068), and weighting each instance of juvenile detention at King Cove by a factor equal to the reciprocal of that proportion. Thus, the 3 instances of juvenile detention at this facility were weighted by a factor of 1.973, providing an overall number of juvenile detentions equal to 5.92 at the King Cove facility. This weighting procedure is based on the assumption that instances of noncompliant juvenile detention at the King Cove lockup during the last half of 1989 occurred at the same rate of noncompliant detention demonstrated in the actual data received.

2. Projection for Non-reporting Adult Lockups:

Data for the 48 adult lockups whose records were inadequate for monitoring purposes were projected by assigning a weight of 2.263 (the reciprocal of the proportion of all adult lockups represented by those included in the analysis) to each case of juvenile detention in the 38 adult lockups from which adequate data were obtained.

This method of projection is statistically valid to the extent that the lockups from which adequate data were obtained are representative of all lockups in the monitoring universe. Since all adult lockups which were able to submit adequate data are included in the analysis, random sampling of this group was not performed. It is believed that lockups which do not maintain adequate records are unlikely to detain more juveniles than those which do. Facilities which do not maintain adequate records probably fail to do so because they, in fact, detain very few individuals, either adult or juveniles. Any error in this method of projecting data for non-reporting lockups should therefore result in a higher number of noncompliant cases than actually occurred in these facilities.

3. Projection for Unknown Duration of Detention:

For a number of cases for which time information was inadequate, it was necessary to project data regarding the duration of detention. This projection affected twenty-three instances with incomplete time data and was contingent on the type of offender status associated with each instance. Duration was unknown in four cases involving accused criminal-type offenders, in fifteen cases with adjudicated criminal-type offenders, in three instances

involving the detention of accused status offenders, and in one case involving a non-offender.

In projecting the length of detention for the three cases involving accused status offenders, the goal was to determine whether the 24-hour grace period had been exceeded. This was accomplished as follows: The proportion of cases in which detention extended beyond the 24-hour grace period was computed for all cases involving detention of status offenders and for which duration of detention was known. The three cases for which duration of detention could not be determined were each assigned a weight of .0217, the overall known proportion of noncompliant instances involving the detention of accused status offenders.

In determining the appropriate weight to assign each of the four cases involving accused criminal-type offenders with insufficient time data, the proportions of cases in which detention extended beyond the 6-hour grace period was computed for all cases involving the detention of an accused criminal-type offender in adult jails, adult correctional centers, and adult lockups. The four cases were then alternately assigned weights of .508, .630, and .444, depending upon the type of adult facility in which they were recorded. Respectively, then, these weights represented the proportions of noncompliant instances among all cases involving detention of juveniles accused of criminal-type offenses for which sufficient data were available in adult jails, adult correctional facilities, and adult lockups.

The fifteen cases involving adjudicated criminal-type offenders for which duration of detention data were insufficient were all recorded in juvenile detention centers, where time limits are not imposed upon the handling of this category of adjudicated juveniles. Since length of detention was irrelevant in these cases, projections were not performed.

4. Projection for Unknown Offender Type:

It was also necessary to project type of offender information (i.e. criminal-type offender, status offender, nonoffender) for ten instances of juvenile detention in which the reason for detention was not adequately specified. Where the reason for detention was unknown several series of computations were required, contingent upon the type of facility from which the data were received. One of the instances of juvenile detention with insufficient offense information was recorded in a juvenile center, four were recorded in adult jails, and the remaining five were recorded in adult lockups.

First, in determining the total number of accused status offenders held over 24 hours (item B5), these cases were alternately assigned weights of .3263, .1039, and .3704, the

respective proportions of status offenders among all instances of juvenile detention in adult jails, juvenile centers, and adult lockups for which type of offender was known. Second, in determining the number of adjudicated status offenders held for any length of time (item b6), these ten unknown offense cases were each alternately assigned weights of .0212, .0078, and .000, the respective proportions of known adjudicated status offenders among all juveniles detained in adult jails, juvenile centers, and adult lockups.

The cases with insufficient offense information were also weighted for the purposes of projecting the incidence of jail removal infractions. These calculations excluded the single unknown case recorded at a juvenile center, since this type of facility is not affected by jail removal considerations. The remaining nine unknown offense cases were each alternately weighted three times - as accused criminal-type offenders, as adjudicated criminal-type offenders, and as status offenders. When the nine cases were projected to be detentions of accused criminal-type offenders, those recorded at adult jails were weighted at .5085 (the proportion of accused criminal-type offenders detained in adult jails for more than 6 hours among all known juvenile criminal-type offenders held) and those recorded at adult lockups were weighted at .4444 (likewise, the proportion of jail removal violations of this type that occurred in adult lockups).

Finally, and in the same fashion, the nine cases with unknown offense were also weighted for the purposes of projecting jail removal infractions involving adjudicated criminal-type offenders and status offenders. For each of these two offender classes, the nine cases were alternately weighted by the overall proportions of noncompliance in adult jails and adult lockups. For the purpose of projecting the number of adjudicated criminal-types held in adult jails, the missing cases originating in jails were assigned the weight of .1059. Since there were no jail removal violations involving adjudicated criminal-type offenders in village lockups, the five offense missing cases reported in lockups were projected to have a value of 0.00.

This weighting procedure - involving the four types of data projection described above - was implemented by assigning a weight equivalent to the <u>product</u> of the four weights to each case of juvenile detention. With the exception of the data from adult lockups, the product of the four weights was ordinarily less than 1.00 for the majority of weighted cases. Because of this, the projected number of noncompliant cases, for any given type, may be smaller than the number of unweighted cases upon which it is based.

APPENDIX TWO:

1989 Jail Removal Violations by Offense Type and Location.

COMMON ACRONYMS USED TO IDENTIFY THE OFFENSES FOR WHICH JUVENILES WERE DETAINED DURING 1989 IN VIOLATION OF JJDP MANDATES.

ASLT_PO	Assault on Police Officer
ASSAULT	Assault, unspecified degree
ASSAULT1	Assault, first degree
ASSAULT3	Assault, third degree
ASSAULT4	Assault, fourth degree
BURG1	Burglary, first degree
BURG2	Burglary, second degree
BW	Bench Warrant, unspecified
CM2	Criminal Mischief, second degree
CM3	Criminal Mischief, third degree
CM4	Criminal Mischief, fourth degree
CT	Criminal Trespass, unspecified
CTORDER	Court Order
CURFEW	Curfew Violation
DC	Disorderly Conduct
DO	Detention Order
DWI	Driving While Intoxicated
DWVOL	Driving Without Valid License
FTA	Failure to Appear
MCA	Minor Consuming Alcohol
MIP	Minor In Possession
MIW2	Misconduct with Weapons, second
MOP	Minor On Premises
NEG_DRIV	Negligent Driving
PC/ALC	Protective Custody/Alcohol Detox
PC	Protective Custody
PV	Probation Violation
RESIST	Resisting Arrest
RUNAWAY	
SEX_ASLT	Sexual Assault, unspecified
T47/ALC	Title 47 Protective Custody
THEFT	Theft, unspecified
THEFT2	Theft, second degree
THEFT3	Theft, third degree
UNK_FELS	Multiple unspecified felony charges
UNKNOWN	Unknown offense
VOC	Violation of Conditions
WA	Warrant
WA:TRAF	Warrant, Traffic related

BARROW ADULT JAIL: JAIL REMOVAL VIOLATIONS OFFENSE TYPE AND NUMBER.

ACCUSED CRIMINAL TYPE OFFENDERS
HELD IN EXCESS OF 6 HOURS.

ASSAULT3	2
BURG1	3
CM2	1
CM3	4
DWI	1
MIW2	1
THEFT2	1
THEFT3	1

ADJUDICATED CRIMINAL TYPE OFFENDERS.

CTORDER	1
PV	2

STATUS OFFENDERS AND NONOFFENDERS.

MCA	17
PC/ALC	2
RUNAWAY	2

CORDOVA ADULT JAIL: JAIL REMOVAL VIOLATIONS OFFENSE TYPE AND NUMBER.

ACCUSED CRIMINAL TYPE OFFENDERS
HELD IN EXCESS OF 6 HOURS.

DWI	1
UNKNOWN	1

ADJUDICATED CRIMINAL TYPE OFFENDERS.

CTORDER	1
UNKNOWN	0

STATUS OFFENDERS AND NONOFFENDERS.

MCA	7
MIP	1
UNKNOWN	1

CRAIG ADULT JAIL: JAIL REMOVAL VIOLATIONS OFFENSE TYPE AND NUMBER.

ACCUSED CRIMINAL TYPE OFFENDERS
HELD IN EXCESS OF 6 HOURS.

ASSAULT4	1
THEFT	1

ADJUDICATED CRIMINAL TYPE OFFENDERS.

WA	1

STATUS OFFENDERS AND NONOFFENDERS.

MOP	1
PC/ALC	1

DILLINGHAM ADULT JAIL: JAIL REMOVAL VIOLATIONS, OFFENSE TYPE AND NUMBER.

ACCUSED CRIMINAL TYPE OFFENDERS
HELD IN EXCESS OF 6 HOURS.

DC	1
DWI	1

STATUS OFFENDERS AND NONOFFENDERS.

MCA	17

HOMER ADULT JAIL: JAIL REMOVAL VIOLATIONS, OFFENSE AND NUMBER.

ACCUSED CRIMINAL TYPE OFFENDERS
HELD IN EXCESS OF 6 HOURS.

DWI	4
DWVOL	1
THEFT	2

ADJUDICATED CRIMINAL TYPE OFFENDERS.

CTORDER	1
UNKNOWN	0
WA	1
WA:TRAF	1

STATUS OFFENDERS AND NONOFFENDERS.

MCA	10
MIP	2
UNKNOWN	0

KODIAK ADULT JAIL: JAIL REMOVAL VIOLATIONS, OFFENSE AND NUMBER.

ADJUDICATED CRIMINAL TYPE OFFENDERS.

BW	1

STATUS OFFENDERS AND NONOFFENDERS.

MIP	1

KOTZEBUE ADULT JAIL: JAIL REMOVAL VIOLATIONS, OFFENSE AND NUMBER.

ACCUSED CRIMINAL TYPE OFFENDERS
HELD IN EXCESS OF 6 HOURS.

ASSAULT	1
BURG2	3
DC	1
DWI	1
NEG_DRIV	1
THEFT	2

ADJUDICATED CRIMINAL TYPE OFFENDERS.

VOC	5

STATUS OFFENDERS AND NONOFFENDERS.

PC/ALC	1

NAKNEK ADULT JAIL: JAIL REMOVAL VIOLATIONS, OFFENSE AND NUMBER.

ACCUSED CRIMINAL TYPE OFFENDER
HELD IN EXCESS OF 6 HOURS.

SEX_ASLT	1

PETERSBURG ADULT JAIL: JAIL REMOVAL VIOLATIONS, OFFENSE AND NUMBER.

ACCUSED CRIMINAL TYPE OFFENDER
HELD IN EXCESS OF 6 HOURS.

DWVOL	1

STATUS OFFENDERS AND NONOFFENDERS.

MIP	3

SEWARD ADULT JAIL: JAIL REMOVAL VIOLATIONS, OFFENSE AND NUMBER.

ACCUSED CRIMINAL TYPE OFFENDERS
HELD IN EXCESS OF 6 HOURS.

ASSAULT4	1
BURG2	1
CM3	1
CT	2
DWI	2
THEFT	1
THEFT2	1
UNK_FELS	1

ADJUDICATED CRIMINAL TYPE OFFENDERS.

WA:TRAF	5

STATUS OFFENDERS AND NONOFFENDERS.

PC	2
PC/ALC	1

SITKA ADULT JAIL: JAIL REMOVAL VIOLATIONS, OFFENSE AND NUMBER.

ACCUSED CRIMINAL TYPE OFFENDERS
HELD IN EXCESS OF 6 HOURS.

ASSAULT4	2
CM3	1

ADJUDICATED CRIMINAL TYPE OFFENDERS.

BW	2
PV	2
VOC	1

VALDEZ ADULT JAIL: JAIL REMOVAL VIOLATIONS, OFFENSE AND NUMBER.

ACCUSED CRIMINAL TYPE OFFENDERS
HELD IN EXCESS OF 6 HOURS.

ASSAULT3	1
CM4	5

STATUS OFFENDERS AND NONOFFENDERS.

CURFEW	4
MIP	5

WRANGELL ADULT JAIL: JAIL REMOVAL VIOLATIONS, OFFENSE AND NUMBER.

ACCUSED CRIMINAL TYPE OFFENDERS.

DWI	2
DWVOL	7
THEFT2	1
THEFT3	1

STATUS OFFENDERS AND NONOFFENDERS

MIP	1

MAT-SU PRETRIAL ADULT CORRECTIONAL CENTER:
JAIL REMOVAL VIOLATIONS, OFFENSE AND NUMBER.

ACCUSED CRIMINAL TYPE OFFENDERS
HELD IN EXCESS OF 6 HOURS.

DWI	2
DWVOL	1
FTA	2

ADJUDICATED CRIMINAL TYPE OFFENDERS.

BW	1
PV	3

KETCHIKAN ADULT CORRECTIONAL CENTER:
JAIL REMOVAL VIOLATIONS, OFFENSE AND NUMBER.

ACCUSED CRIMINAL TYPE OFFENDERS
HELD IN EXCESS OF 6 HOURS.

ASLT_PO	1
ASSAULT4	1
BURG1	1
BURG2	2
CM2	2
RESIST	2

ADJUDICATED CRIMINAL TYPE OFFENDERS.

DO	1

STATUS OFFENDERS AND NONOFFENDERS.

MOP	1

ANAKTUVUK PASS ADULT LOCKUP

STATUS OFFENDERS AND NONOFFENDERS:

MCA	2*

ANGOON ADULT LOCKUP

ACCUSED CRIMINAL TYPE OFFENDER
HELD IN EXCESS OF 6 HOURS:

ASSAULT4	1

CHEVAK ADULT LOCKUP

STATUS OFFENDERS AND NONOFFENDERS:

PC/ALC	2
UNKNOWN	1

FORT YUKON ADULT LOCKUP

ACCUSED CRIMINAL TYPE OFFENDERS
HELD IN EXCESS OF 6 HOURS:

ASLT_PO	2
ASSAULT1	2
ASSAULT3	2

GALENA ADULT LOCKUP

ACCUSED CRIMINAL TYPE OFFENDERS
HELD IN EXCESS OF 6 HOURS:

DWI	2

STATUS OFFENDERS AND NONOFFENDERS:

T47/ALC	2

* The number of violations attributed to any single adult lockup is the product of a weighting scheme. See "Methodology" section.

GLENNALLEN ADULT LOCKUP

ACCUSED CRIMINAL TYPE OFFENDERS
HELD IN EXCESS OF 6 HOURS:

ASSAULT4	1

STATUS OFFENDERS AND NONOFFENDERS:

RUNAWAY	5

HOONAH ADULT LOCKUP

STATUS OFFENDERS AND NONOFFENDERS:

RUNAWAY	2

KING COVE ADULT LOCKUP

ACCUSED CRIMINAL TYPE OFFENDER
HELD IN EXCESS OF 6 HOURS:

DWI	4

POINT HOPE ADULT LOCKUP

ACCUSED CRIMINAL TYPE OFFENDER
HELD IN EXCESS OF 6 HOURS:

DWI	2

SAINT MARYS ADULT LOCKUP

STATUS OFFENDERS AND NONOFFENDERS:

CURFEW	2

SELAWIK ADULT LOCKUP

STATUS OFFENDERS AND NONOFFENDERS:

MCA	7

TOK ADULT LOCKUP

ACCUSED CRIMINAL TYPE OFFENDER HELD IN EXCESS OF 6 HOURS:

UNKNOWN	4

STATUS OFFENDERS AND NONOFFENDERS:

UNKNOWN	4

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JUSTICE CENTER

3 December 1990

Mr. Dick Illias
Youth Corrections Administrator
Division of Family and Youth Services
SOA DHSS
550 W. 8th, Suite 304
Anchorage, AK 99501

Dear Dick:

Thank you for calling to my attention the mistakes contained in the 1989 Juvenile Justice and Delinquency Prevention Act Compliance Monitoring Report. I have corrected pages 14, 30, and 32, and have added a footer noting their revised status. I apologize for the errors and any inconvenience they caused. Let me know if I can be of any further assistance.

Sincerely,

Emily Read
Research Associate